

- 1921.38 The pharmacist is responsible for developing and maintaining a quality assurance program that insures a clean and sanitary environment for the preparation of sterile products and insures that the parenteral products that are produced are sterile. Documentation of these activities shall be available to the Director.
- 1921.39 The quality assurance program required by section 1921.37 of this chapter shall include, but not be limited to, provisions for the following:
- (a) Cleaning and sanitizing the parenteral medication area;
  - (b) Surveillance of parenteral solutions for microbiological contamination and actions taken in the event that testing for contamination proves positive;
  - (c) Where bulk compounding of parenteral solutions is performed, the surveillance of parenteral solutions for microbiological contamination and pyrogens, and documentation of the results prior to dispensing to the patient;
  - (d) Periodic documentation of the room and refrigerator temperatures in which compounded parenteral products are stored;
  - (e) Steps to be taken in the event of a drug recall; and
  - (f) Written justification of expiration dates for compounded parenteral products.
- 1921.40 Pharmacies engaged in the practice of compounding and dispensing parenteral solutions shall have written policies and procedure which describe the methods and approaches employed by the pharmacy in dispensing, compounding, and labeling parenteral solution.
- 1921.41 Pharmacies engaged in the practice of compounding and dispensing parenteral solutions shall have current reference materials located in or immediately available to the pharmacy, which shall include information on:
- (a) All drugs and chemicals used in parenteral therapy; and
  - (b) All parenteral therapy manufacturing, dispensing, distribution, and counseling services provided.
- 1922 NUCLEAR PHARMACIES**
- 1922.1 A pharmacy, institution, or other establishment that provides radiopharmaceutical services shall obtain from the Director a nuclear pharmacy license. The license to

operate a nuclear pharmacy shall be conditioned upon approval of the United States Nuclear Regulatory Commission (NRC) where applicable.

1922.2 A license to operate a pharmacy providing radiopharmaceutical services shall only be issued to a qualified nuclear pharmacist as defined in § 1922.3.

1922.3 A qualified nuclear pharmacist shall:

- (a) Be a currently licensed pharmacist in the District of Columbia;
- (b) Have met the Nuclear Regulatory Commission standards of training for medically used or radioactive by-product material; and
- (c) Be currently certified as a nuclear pharmacist by a certification board recognized by the Board; or in lieu of certification:
  - (1) Submit proof acceptable to the Board that the individual has completed a minimum of two hundred (200) contact hours of didactic instruction in nuclear pharmacy and the safe handling and the use of radioactive material from a program recognized by the Board; and
  - (2) Submit proof acceptable to the Board that the individual has completed a minimum of five hundred (500) hours of supervised clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services or in a structured clinical nuclear pharmacy training program in an approved school of pharmacy.

1922.4 A qualified nuclear pharmacist shall be responsible for all operations of the nuclear pharmacy and shall be in personal attendance at all times that the nuclear pharmacy is open for business.

1922.5 A nuclear pharmacy shall be managed by a nuclear pharmacist (hereafter referred to "Responsible Nuclear Pharmacist") who is licensed to practice pharmacy in the District of Columbia. A nuclear pharmacist shall not be the Responsible Nuclear Pharmacist for more than one nuclear pharmacy at a time.

1922.6 The Responsible Nuclear Pharmacist shall be assisted by a sufficient number of additional authorized nuclear pharmacists as may be required to operate the pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

1922.7 All personnel performing tasks in the preparation and distribution of radioactive drugs shall be under the direct supervision of a qualified nuclear pharmacist.

1922.8 The Responsible Nuclear Pharmacist shall designate in advance, one or more

other licensed pharmacists to have access to the licensed area in emergency situations when a qualified nuclear pharmacist is not present. These pharmacists may obtain single doses of radiopharmaceuticals for the immediate emergency and shall document such withdrawals in the control system.

1922.9

The Responsible Nuclear Pharmacist shall be responsible for, at a minimum, the following:

- (a) Ensuring that radiopharmaceuticals are dispensed and delivered safely and accurately as prescribed;
- (b) Developing a system to ensure that all personnel responsible for compounding or supervising the compounding of radiopharmaceuticals within the pharmacy receive appropriate education and training and competency evaluation;
- (c) Establishing policies for procurement of drugs and devices and storage of all pharmaceutical materials including radiopharmaceuticals, components, used in the compounding of radiopharmaceuticals, and drug delivery practices;
- (d) Developing a system for the disposal and distribution of drugs from the pharmacy;
- (e) Developing a system for the compounding, sterility assurance, and quality control of sterile radiopharmaceuticals;
- (f) Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials including radiopharmaceuticals, required by applicable federal and District of Columbia laws and regulations;
- (g) Developing a system to ensure maintenance of effective controls against the theft or diversion of prescription drugs, and prescription records;
- (h) Ensuring that the pharmacy has a system to dispose of radioactive and cytotoxic waste in a manner so as not to endanger the public health; and
- (i) Developing and implementing written policies and procedures to ensure compliance with the applicable provisions federal and District of Columbia laws and regulations.

1922.10

Nuclear pharmacies shall have adequate space and equipment, commensurate with the scope of services required and provided, meeting minimal space requirements established for all pharmacies in the District or as otherwise defined by the Director.

- 1922.11 The Nuclear Pharmacy area shall be secured from unauthorized personnel.
- 1922.12 In a nuclear pharmacy providing ordinary pharmacy services in addition to radiopharmaceutical services, the nuclear pharmacy area shall be separate from the pharmacy areas for non-radioactive drugs and shall be secured from unauthorized personnel.
- 1922.13 All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least twenty-five (25) square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office areas.
- 1922.14 Nuclear pharmacies shall maintain records of acquisition, inventory, and disposition of all radioactive drugs and other radioactive materials in accordance with all applicable federal and District of Columbia laws and regulations.
- 1922.15 A nuclear pharmacy shall have the equipment and reference material required under § 1909 of this Title as well as all other applicable federal and District of Columbia laws and regulations.
- 1922.16 Radiopharmaceuticals shall be dispensed only upon a prescription drug order from a practitioner authorized to possess, use, and administer radiopharmaceuticals.
- 1922.17 A nuclear pharmacy shall dispense only radiopharmaceuticals which comply with acceptable standards of radiopharmaceutical quality assurance.
- 1922.18 The immediate outside container (shield) of a radioactive drug to be dispensed shall bear the following information:
- (a) The name and address of the nuclear pharmacy;
  - (b) The name of the prescriber (authorized user);
  - (c) The date of dispensing;
  - (d) The serial number, lot number, or prescription number assigned to the radiopharmaceutical order;
  - (e) The standard radiation symbol;
  - (f) The name of the diagnostic procedure;
  - (g) The words "Caution: Radioactive Material";
  - (h) The name of the radionuclide and chemical form;

- (i) The amount of radioactivity and the calibration date and time;
- (j) The expiration date and time;
- (k) In the case of a diagnostic radiopharmaceutical, the patient's name or the words "Per Physician's Order";
- (l) In the case of a therapeutic radiopharmaceutical, the patient's name;
- (m) The activity and date and time of assay;
- (n) The volume, if in liquid form; and
- (o) The requested activity and the calibrated activity.

1922.19 The immediate inner container shall be labeled with:

- (a) The standard radiation symbol;
- (b) The words "Caution-Radioactive Material"; and
- (c) The serial number or prescription number assigned to the order.

1922.20 Orders for radiopharmaceuticals, whether written or verbal, shall include at least the following information:

- (a) The name of the institution or facility and the name of the person transmitting the order;
- (b) The date that the radiopharmaceutical will be needed and the calibration time;
- (c) The name or generally recognized and accepted abbreviation of the radiopharmaceutical;
- (d) The dose or activity of the radiopharmaceutical at the time of calibration; and
- (e) In the case of a therapeutic radiopharmaceutical or a radiopharmaceutical blood product, the name of the patient shall be obtained prior to dispensing.

1922.21 The amount of radioactivity shall be determined by radiometric methods for each individual dose immediately prior to dispensing.

1922.22 A nuclear pharmacy shall comply with applicable laws and regulations of District of Columbia and federal agencies, including the laws and regulations governing

any non-radioactive drugs, and any medical devices that may be dispensed.

**1923 PHARMACY FEES**

1923.1 The fees related to pharmacies are as follows:

- |  |          |
|--|----------|
| (a) Biennial License Fee                   | \$500.00 |
| (b) Late Fee                               | \$125.00 |
| (c) Non-Resident Pharmacy Registration Fee | \$400.00 |
| (d) Duplicate certificate                  | \$35.00  |
| (e) License validation                     | \$35.00  |

**Section 1925 is amended to read as follows:**

**1925 INSPECTION AND INVESTIGATION**

1925.1 The Director, or his agent, shall have the right to enter upon and into the premises of any licensee, registrant, applicant for a license or registration, pharmacy or other location where prescription drugs or devices are stored, or reasonably believed to be stored:

- (a) At reasonable times,
- (b) After presenting proper identification; and
- (c) For the purpose of making compliance inspections or conducting complaint investigations concerning the laws and regulations applicable to the practice of pharmacy, operation of pharmacies, and handling of controlled and prescription drugs.

1925.2 An inspection or investigation conducted under this Title may include:

- (a) The examination of the pharmacy records, including prescriptions, invoices, and inventory records;
- (b) The obtaining of prescriptions, information, and samples pertaining to drugs dispensed;
- (c) The examination of any drugs, medical devices, or any other pharmaceutical products or medicinal chemicals that are in the pharmacy; and
- (d) The review of any records and publications that are

required by any applicable District of Columbia or federal laws or regulations to be kept in a pharmacy.

- 1925.3 The Director shall delegate pharmacists licensed in good standing under the Act to conduct inspections of pharmacy operations covered by these rules, which shall be conducted for a new license, at least annually thereafter, and as often as the Director deems necessary.
- 1925.4 The Director shall delegate staff to investigate complaints of violations of the Act, this chapter, and all other applicable laws and regulations regarding the practice of pharmacy and the operation of a pharmacy.
- 1925.5 The Director shall delegate pharmacists licensed in good standing under the Act to conduct compliance inspections, audits, and other inspections required under the Act to ensure accountability for all controlled substances and to ensure compliance with laws regulating the practice of pharmacy and the distribution of prescription drugs and devices in the District and all other applicable laws and regulations regarding the practice of pharmacy and the operation of a pharmacy.

**Section 1999.1 is amended as follows:**

**The following terms are repealed:**

**Controlled substances** - those drug items or chemicals regulated under the federal Controlled Substances Act of 1970, Pub. L. 91-513, 21 U.S.C. 800 et seq. and 900 et seq., as amended, and the District of Columbia Uniform Controlled Substances Act of 1981, D.C. law 4-29, D.C. Code secs. 33-501 et seq., as amended.

**Department** - the Department of Consumer and Regulatory Affairs.

**Director** - the Director, Department of Consumer and Regulatory Affairs.

**Division** - the Pharmaceutical, Radiological, and Medical Devices Control Division, Department of Consumer and Regulatory Affairs.

**HORA** - the District of Columbia Health Occupations Revisions Act of 1985, D.C. Law 6-99, D.C. Code secs. 2-3301 through 2-3311.

**Institutional pharmacy** - a pharmacy or that portion thereof, as defined by HORA, which is in an institutional establishment, hospital, infirmary, or any other organization or entity whose primary purpose is to provide a physical environment for patients to obtain pharmaceutical health care services (except those places where practitioners are duly licensed to engage in private practice) and which is engaged in the sale, dispensing, or distribution of drugs.

**Compounding**—the preparation, mixing, assembling, packaging, or labeling of a drug or device as the result of a practitioner's prescription drug order or for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

**Controlled substances**—those drug items or chemicals regulated under the Federal Controlled Substances Act of 1970, approved October 27, 1970 (Pub.L. 91-513, 21 USC § 801 *et seq.*) as amended; and the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29, D.C. Official Code § 48-901 *et seq.*) as amended.

**Decentralized automated medication system**- an automated medication system that is located outside of the pharmacy in a health care facility with an on-site pharmacy and in which medication is stored in a manner that may be, but need not be, patient specific.

**Department**—The District of Columbia Department of Health.

**Director**- The Director of the District of Columbia Department of Health.

**Director of Pharmacy**—the licensed pharmacist in an institutional facility who is in direct charge of, and has overall responsibility for the operation and management of pharmacy services of that institution.

**Dispense**—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or medical device to a patient or patient's agent.

**Distribute**—the actual, constructive, or attempted transfer from one person to another, other than by administering or dispensing, of a drug or medical device whether or not there is an agency relationship.

**Drug**—means:

- (a) any substance recognized as a drug, medicine, or medicinal chemical in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, or official Veterinary Medicine Compendium or other official drug compendium or any supplement to any of them;
- (b) any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;



- (c) any chemical substance (other than food) intended to affect the structure or any function of the body of man or other animal; and
- (d) any substance intended for use as a component of any items specified in subparagraph (a), (b), or (c) of this paragraph, but does not include medical devices or their components, parts, or accessories.

**Final Verification-** The review of the final prescription prior to delivery to a patient to ensure that the ordered medication or medical device is properly prepared and placed in a suitable container with appropriate labeling.

**HIPAA**—The Federal Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (42 U.S.C. §§ 1320d-1320d-8).

**Homeopathic Drug-** A substance that has known "homeopathic provings" and/or known effects which mimic the symptoms, syndromes or conditions which it is administered to treat, and is manufactured according to the specifications of the Homeopathic Pharmacopoeia of the United States (HPUS). Official homeopathic drugs are those that have been monographed and accepted for inclusion in the HPUS.

**HORA-** Health Occupation Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 et seq.).

**Inspection-** a periodic on site review of places at which prescription drugs or devices may be produced, sold, or stored to determine compliance with applicable federal and District laws and regulations, including pre-licensure inspections performed to ensure a facility complies with applicable District law and regulations prior to receiving a license to operate in the District.

**Investigation-** the process of gathering and recording essential facts and observations with respect to the events and circumstances related to complaints, reported information, including interviews, reviewing records, and physical inspections to determine whether there is a violation of any applicable laws or regulations.

**Institutional Facility-** means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services, including a(n):

- (1) Hospital;
- (2) Convalescent home;
- (3) Nursing home;
- (4) Extended care facility;

- (5) Mental health facility;
- (6) Rehabilitation center;
- (7) Psychiatric center;
- (8) Developmental disability center;
- (9) Drug abuse treatment center;
- (10) Family planning clinic;
- (11) Penal institution;
- (12) Hospice;
- (13) Public health facility;
- (14) Athletic facility.

**Institutional pharmacy**—means that physical portion of an institutional facility where drugs, devices, and other materials used in the diagnosis and treatment of injury, illness, and disease are dispensed, compounded, distributed and pharmaceutical care is provided.

**Labeler**—an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 CFR § 207.20.

**Labeling**—the process of affixing a label to any drug container, but does not include the labeling by a manufacturer, packer, or distributor of an over-the-counter drug, packaged legend drug, or medical device.

**Mayor**—the Mayor of the District of Columbia or the Mayor's designated agent.

**Medical device**—an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is:

- (a) recognized in the official National Formulary, the official United States Pharmacopoeia, or any supplement thereto;

- (b) intended for use in the diagnosis of disease or any other condition, or in the cure, mitigation, treatment, or prevention disease in a human or other animal; or
- (c) intended to affect the structure of any function of the body of man or other animal, and which does achieve any of its principal intended purposes through chemical action within or on the body of a human or other animal, and which does not depend upon being metabolized for the achievement of any of its principal intended purposes.

**Misbranded drug or medical device**-- as defined in section 501 of the Federal Food, Drug and Cosmetic Act, (Pub. L. 96-354, 21 USC § 352) as amended

**Nonresident pharmacy**- A pharmacy, including an internet-based pharmacy, located outside the District of Columbia which ships, mails, or delivers, in any manner, prescription drugs or prescription medical devices into the District of Columbia, whether directly or through an intermediary, pursuant to a valid prescription.

**Over-the-counter drug (Proprietary)**—drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of the District of Columbia and the federal government.

**Person**—any individual, partnership, association, corporation, company, joint stock association, or any organized group of persons whether incorporated or not, or any trustee, receiver, or assignee thereof.

**Pharmaceutical Care**—the provision of drug therapy and other patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

**Pharmacist**—a person who is licensed to engage in the practice of pharmacy in the jurisdiction in which he or she is practicing.

**Pharmacist-in-charge**—a licensed pharmacist who accepts responsibility for the operation of a pharmacy and who is personally in full and actual charge of the pharmacy and pharmacy personnel.

**Pharmacy**—any establishment or institution, or any part thereof, where the practice of pharmacy is conducted; drugs are compounded or dispensed, offered for sale, given away, or displayed for sale at retail; or prescriptions are compounded or dispensed.

**Pharmacy intern**—any person who is registered in the District of Columbia to engage in the practice of pharmacy under the direct supervision of a pharmacist.

**Pharmacy technician**—an individual employed by a pharmacy who possesses appropriate education, training, and experience to assist in the practice of pharmacy, under the direct supervision of a pharmacist, by assisting in the technical services of preparing pharmaceuticals for final dispensing by a pharmacist.

**Practice of pharmacy**—the interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices, and the maintenance of proper records therefore; the responsibility of advising, where regulated or otherwise necessary, of therapeutic values and content, hazards, and use of drugs and devices; and the offering of performance of those acts, services, operations, and transactions necessary in the conduct, operation, management, and control of a pharmacy.

**Practitioner**—an individual licensed, registered, certified, or otherwise permitted by law to prescribe, dispense, and to administer drugs or medical devices, or to conduct research with respect thereto, within the course of such persons' professional practice or research.

**Prescriber**- a practitioner who is authorized by law to issue a prescription.

**Prescription (Legend)**—any order for a drug, medicinal chemical, or combination or mixtures thereof, or for a medically prescribed medical device, in writing, dated and signed by an authorized health professional or given orally to a pharmacist by an authorized health professional or the person's authorized agent and immediately reduced to writing by the pharmacist or pharmacy intern, specifying the address of the person for whom the drug or device is ordered and directions for use to be placed on the label.

**Prescription drug**—means any of the following:

- (a) A drug which under federal law is required to be labeled with either of the following statements prior to being dispensed or delivered:
  - (1) "Caution: Federal law prohibits dispensing without prescription"; or
  - (2) "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian.
- (b) A drug which is required by any applicable federal, or District of Columbia law or regulation to be dispensed pursuant only to a prescription drug order; or

- (c) A drug which is restricted to use by health professionals and allied practitioners for research.

**Proprietor of a pharmacy**—a person designated as proprietor in an application for a pharmacy license. The proprietor may be an individual a corporation, a partnership, or an unincorporated association, and shall at all times own a controlling interest in the pharmacy.

**Provider pharmacy**—The community/retail pharmacy or the institutional pharmacy providing remote pharmacy services.

**Qualified nuclear pharmacist**—a licensed pharmacist, who is certified as a nuclear pharmacy by a certification board recognized by the Board and who has met the standards of training for NRC for medically used and radioactive by-product materials, and any other standards required by the Board or any applicable federal or District of Columbia laws or regulations.

**Radiopharmaceuticals**—radioactive drugs and chemicals within the classification of legend drugs as defined under the Federal Food, Drug, and Cosmetic Act , approved June 25, 1938 (21 USC §§ 301 et seq.).

**Remote automated medication system**- an automated medication system that is located in a health care facility that does not have an on-site pharmacy and in which medication is stored in a manner that may be, but need not be, patient specific.

**Remote pharmacy services**—The provision of pharmacy services, including the storage and dispensing of prescription drugs, in a facility that is not at the same location as the provider pharmacy.

**Remote site**—a facility not located at the same location as the pharmacy at which remote pharmacy services are provided using an automated medication dispensing system.

**Starter dose**- a dose of medication removed from a remote or decentralized automated medication system within the first 24 hours after it is ordered.

**Still image capture**- A specific image captured electronically from a video or other image capture device.

**Store and forward**—A video or still image record which is saved electronically for future review.

**Telepharmacy**—The practice of pharmacy through the use of a telepharmacy system.

**Telepharmacy system**—A system that monitors the dispensing of prescription drugs and provides for related drug use review and patient counseling services by an electronic method which shall include the use of the following types of technology:

- (a) Audio and video;
- (b) Still image capture; and
- (c) Store and forward.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

**D.C. DEPARTMENT OF HUMAN RESOURCES  
METROPOLITAN POLICE DEPARTMENT**

**NOTICE OF PROPOSED RULEMAKING**

The Director, D.C. Department of Human Resources, and the Chief, Metropolitan Police Department, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.01 *et seq.*) (2006), as amended by section 95 of the Technical Amendments Act of 2006 (D.C. Law 16-191, 53 DCR 6794, August 18, 2006), hereby gives notice of the intent to adopt the following proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. These rules would amend Chapter 12, Hours of Work, Legal Holidays, and Leave, of Title 6 of the District of Columbia Municipal Regulations (DCMR), to implement all the provisions of Title XII of the CMPA. Additionally, this Notice of Proposed Rulemaking would supersede the Notice of Proposed Rulemaking published at 29 DCR 3727 (August 27, 1982); and supplement sections 1250 through 1259 and 1299 of the chapter related to the annual leave bank program; excused absence in connection with serving as a bone marrow or organ donor; and definitions, respectively, published at 40 DCR 1292 (February 12, 1993) and amended at 49 DCR 9056 (October 4, 2002). These sections are unaffected by this Notice of Proposed Rulemaking, and shall remain in effect as previously published, except that this notice would add definitions not previously included in section 1299 of the chapter. Upon adoption, these rules would amend Chapter 12, Hours of Work, Legal Holidays, and Leave, of Title 6 of the DCMR, published at 40 DCR 1292 (February 12, 1993) and amended at 49 DCR 9056 (October 4, 2002).

**CHAPTER 12**

**HOURS OF WORK, LEGAL HOLIDAYS, AND LEAVE**

*Chapter 12 of the D.C. Personnel Regulations is amended to add new sections 1201 through 1248 and 1260 through 1280; and add several definitions in section 1299 of the chapter. The purpose of this amendment is to implement all of the provisions on hours of work, legal holidays, and leave of Title XII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978:*

**1201      STATUTORY AUTHORITY AND APPLICABILITY**

- 1201.1      The statutory authority for this chapter is Title XII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-610.51 *et seq.*) (2006), as amended by section 95 of the Technical Amendments Act of 2006 (D.C. Law 16-191, 53 DCR 6794, August 18, 2006).

1201.2 The provisions in this chapter shall apply to all District government employees except the following:

- (a) Employees in the Executive Service appointed under the authority of Title X-A of the CMPA (D.C. Official Code § 1-610.51 *et seq.*) (2006);
- (b) Uniformed members of the Metropolitan Police Department and the Fire and Emergency Medical Services Department;
- (c) Members of a board or commission whose pay is fixed under section 1108 of the CMPA (D.C. Official Code § 1-611.08) (2006); and
- (d) Educational Service employees of the Board of Trustees of the University of the District of Columbia appointed under the authority of section 801-A of the CMPA (D.C. Official Code § 1-608.01a) (2006).

1201.2 The provisions of a collective bargaining agreement shall take precedence over the provisions of this chapter for those employees covered by such an agreement, to the extent that there is a difference.

## **1202 DELEGATION OF AUTHORITY**

1202.1 Whenever in this chapter it is provided that a decision may be made or an action may be taken by "the Mayor," an "agency head," the "Director, D.C. Department of Human Resources," a "personnel authority," or "another designated official," the authority to make such a decision or take such an action may be delegated to a designee, unless specifically indicated otherwise.

## **1203 ESTABLISHMENT OF WORKWEEKS**

1203.1 An agency head shall establish the following with respect to each group of full-time employees to whom this chapter applies:

- (a) A basic workweek of forty (40) hours that does not extend over more than six (6) of any seven (7) consecutive calendar days; and, except as provided in section 1203.2 of this section, the calendar days constituting the basic workweek and the number of hours of employment for each calendar day included within the basic workweek shall be specified; and
- (b) A scheduled tour of duty that consists of the forty-hour (40-hour) basic workweek established in accordance with section 1203.1 (a) of this section, plus any period of overtime work regularly required of each group of employees; and, except as provided in section 1203.2 of this section, for purposes of leave and overtime pay administration, the calendar days and number of hours a day of the periods included in the scheduled tour of duty that do not constitute a part of the basic workweek shall be specified.



- 1203.2 The scheduled tour of duty shall be the total number of regularly scheduled hours of duty a week, including standby time, and excluding time allowed for sleep and meals.
- 1203.3 An agency head may provide for the allowance of a specific number of hours out of each twenty-four (24) hours at the official duty station for sleep and meals; however, the time allowed for sleep and meals need not be specifically identified.
- 1203.4 An employee who works two (2) shifts that begin within the same twenty-four hour (24-hour) period in the basic workweek shall be paid for two (2) days of work at the regular basic pay rate – the first (1<sup>st</sup>) shift being counted as of the day on which it begins and the second (2<sup>nd</sup>) shift as of the day on which it ends.
- 1203.5 The occurrence of holidays shall not affect the designation of the basic workweek.

**1204 ESTABLISHMENT OF SCHEDULED TOURS OF DUTY**

- 1204.1 Agencies shall establish scheduled tours of duty consistent with the provisions of section 1204.2 of this section, except when the Mayor determines that an agency would be seriously handicapped in carrying out its functions, or that costs would be substantially increased, and mandates an alternative work schedule as provided in section 1209 of this chapter.
- 1204.2 The following provisions shall apply to the establishment of scheduled tours of duty:
- (a) Assignments to tours of duty shall be scheduled in advance over periods of not less than one (1) week;
  - (b) Except when an alternative work schedule has been approved as provided in section 1209 of this chapter:
    - (1) The basic forty-hour (40-hour) workweek shall be scheduled on five (5) days, Monday through Friday when possible, and the two (2) days outside the basic workweek shall be consecutive;
    - (2) The working hours in each day in the basic workweek shall be the same; and
    - (3) The basic non-overtime workday shall not exceed eight (8) hours;
  - (c) The occurrence of holidays shall not affect the designation of the scheduled tour of duty;
  - (d) Breaks in non-work time totaling more than one (1) hour shall not be scheduled during the working hours of a basic workday, except when a flexible work schedule has been approved as provided in section 1208 of this chapter;

- (e) A lunch period of thirty (30) minutes, which shall be in addition to the regularly scheduled duty hours, shall be provided, except for an employee required to remain at his or her official duty station so that the agency can provide twenty-four hour (24-hour) coverage, and who may be required to take lunch while at his or her official duty station;
- (f) For a part-time employee, a scheduled tour of duty shall consist of the officially prescribed days and hours within the administrative workweek during which the employee is required to be on duty regularly;
- (g) The work schedule of an employee who also serves as a member of a board or commission may be established to accommodate attendance at official meetings; and
- (h) Agencies shall make every reasonable effort to schedule tours of duty of an employee who is a member of a reserve component of the U.S. Armed Forces, as defined in section 1262.1 of this chapter, to avoid any conflict with his or her attendance at evening or weekend drills.

1204.3 An agency may require an employee to work overtime hours in addition to his or her scheduled tour of duty.

## **1205 VARIATIONS IN WORK SCHEDULES FOR EDUCATIONAL PURPOSES**

1205.1 This section applies to training, whether or not it is provided in accordance with Chapter 13 of these regulations.

1205.2 Notwithstanding the provisions of section 1203.1 of this chapter, an agency head may authorize an employee to work a tour of duty of not less than forty (40) hours in order to permit the employee to take one (1) or more courses in a college, university, or other educational institution when all of the following conditions are met:

- (a) The tour of duty will not appreciably interfere with the accomplishment of the work required to be performed;
- (b) The agency's cost is not substantially increased by allowing the employee to take the course or courses; and
- (c) Completion of the course or courses is related to the employee's position, and would equip the employee for more effective work in the District government.

1205.3 Employees who have been granted a variation in the tour of duty for educational purposes shall not be entitled to premium pay where the variation in tour of duty has resulted in the employee's tour of duty occurring at a time of day for which premium pay would otherwise be payable.

- 1205.4 In every case where an employee has been granted a change in their tour of duty for educational purposes, the employee shall be required to sign a statement acknowledging the conditions of the change in tour including the forfeiture of premium pay in accordance with the conditions set forth in 1205.3 of this section.
- 1205.5 A tour of duty for educational purposes may not be established if it would cause a supervisor to become entitled to premium pay because the supervisor's schedule must be changed so as to provide supervision of the employee.
- 1205.6 A variation in an employee's change in tour of duty for educational reasons may be rescinded by the agency head whenever the variation has resulted in the employee's failure to accomplish the work in the office or for other reasons within the discretion of the agency head.
- 1205.7 Whenever an agency determines that the variation of the tour of duty is to be rescinded, the employee shall be given where practicable at least one week's notice of the rescission.
- 1205.8 The variation in tour of duty for educational purposes shall be rescinded at the completion of the training program and upon notice by the employee that the course or training has been completed. The employee shall return to the tour of duty that existed prior to receiving the educational variation unless such tour has been changed by the employee's supervisor.
- 1205.9 Failure of an employee to inform the supervisor of the completion of or discontinuation of the training or course so that the regularly established tour can be re-established shall result in the forfeiture of the employee's opportunity to receive future variations and where appropriate will result in disciplinary action.

## **1206 VARIATIONS IN WORK SCHEDULES FOR RELIGIOUS OBSERVANCES**

- 1206.1 Pursuant to section 701 (b) through (f) of the CMPA (D.C. Official Code § 1-607.01 (b) through (f)) (2006), and notwithstanding the provisions of section 1203.1 of this chapter, and to the extent that a variation in a work schedule does not result in a substantial disruption of District government business, an employee whose personal religious beliefs require that he or she abstain from working at certain times of the workday or workweek shall be entitled to reasonable accommodation for the free exercise of religion.
- 1206.2 The accommodation to be provided may include an adjustment in the work schedule when the employee elects to make up the time off rather than to charge the time off to leave.
- 1206.3 If the need to take the time off for religious reasons is foreseeable, the employee shall request an adjustment of his or her work schedule as provided in section 1206.2 of this section and obtain supervisory approval of the adjustment at least ten (10) days before taking time off from work.

- 1206.4 A request to adjust the employee's work schedule may be disapproved if it is demonstrated that the adjustment would clearly interfere with the efficient conduct of the activities of the employing agency.
- 1206.5 Nothing in this section shall be construed to totally exempt an employee from being required to work rotating shifts including working on weekends as a result of religious preferences.
- 1206.6 Nothing in this section shall be construed to limit the use of other forms of leave authorized by this chapter.
- 1206.7 Each personnel authority shall provide written notice to an employee, at the time that the employee accepts employment that he or she may receive the religious accommodation described in section 1206.1 of this section.

## **1207 TRAVEL ON OFFICIAL TIME**

- 1207.1 Insofar as practicable, travel during non-duty hours shall not be required of an employee.
- 1207.2 When an employee is required to travel outside of his or her regularly scheduled administrative workweek, the employee is to be given overtime compensation in accordance with the conditions for determining "hours of employment" in section 1207.3 of this section.
- 1207.3 In determining "hours of employment" for purposes of entitlement to overtime compensation, time spent in travel status away from an employee's official duty station shall be deemed to be "hours of employment" only when any one (1) or more of the following is true:
- (a) The travel takes place within the days and hours of the employee's scheduled tour of duty, including regular overtime work; or
  - (b) If the hours are outside of the employee's regularly scheduled administrative workweek, is ordered or approved, and meets any of the following conditions:
    - (1) The travel involves the performance of work while traveling;
    - (2) The travel is incidental to travel that involves performance of actual work while traveling;
    - (3) The travel is carried out under such arduous and unusual conditions which make the travel inseparable from work; or
    - (4) The travel results from an event that could not be scheduled or controlled administratively.

**1208 FLEXIBLE WORK SCHEDULE**

- 1208.1 Pursuant to section 1201 (e) of the CMPA (D.C. Official Code § 1-612.01 (e)) (2006), a flexible work schedule may be established by an agency for one (1) or more employees when such work schedule is considered both practicable and feasible in terms of employee morale, increased productivity, and improved service to the public.
- 1208.2 A flexible work schedule may be established by an agency only if agency management determines that the schedule will not have an adverse impact on public service, and that costs will not increase substantially.
- 1208.3 Employee participation in a flexible work schedule shall be voluntary. A flexible work schedule, if established, must be offered on an equal basis to all employees of the agency, or the subordinate component of the agency involved. However, an agency head may determine that the work of certain subordinate components of the agency is not conducive to flexible work schedules and may restrict the ability to work flexible work schedules to certain components of the agency.
- 1208.4 The decision of the agency head with respect to limiting the subordinate components within the agency to flexible work schedules is final and not appealable.
- 1208.5 The basic requirements for establishing a flexible work schedule shall be as follows:
- (a) The designation of core time during which all employees are required to be present, except for authorized lunch periods;
  - (b) The designation of flexible time periods during which the employee has the option of selecting and varying his or her starting and quitting time within established limits, but such flexible time periods may not commence prior to 6:00 a.m., nor end after 6:00 p.m.;
  - (c) The maintenance of accurate time and attendance controls to ensure that each employee works or otherwise accounts for eight (8) hours per day, five (5) days per week; and
  - (d) Prior approval by the appropriate personnel authority.
- 1208.6 A flexible work schedule shall not be combined with an alternative work schedule under section 1209 of this chapter, a compressed work schedule under section 1210 of this chapter, or telecommuting under section 1211 of this chapter.

**1209 ALTERNATIVE WORK SCHEDULE**

- 1209.1 An alternative work schedule may be mandated by the Mayor as provided in section 1204.1 of this chapter, or established by an agency as provided in this section.

- 1209.2 Pursuant to section 1201 (e) of the CMPA (D.C. Official Code § 1-612.01 (e)) (2006), an alternative work schedule may be established by an agency for one (1) or more employees when such work schedule is considered practicable and feasible.
- 1209.3 An alternative work schedule may be established by an agency only if costs are not substantially increased.
- 1209.4 Except in the case of an alternative work schedule mandated by the Mayor under section 1209.1 of this section, employee participation in alternative work scheduling shall be voluntary. An alternative work schedule, if established, must be offered on an equal basis to all employees of the agency, or to all employees of the subordinate component of the agency involved, as applicable. However, an agency head may determine that the work of certain subordinate components of the agency is not conducive to an alternative work schedule and may restrict the ability to work alternative work schedules to certain components of the agency.
- 1209.5 The decision of the agency head with respect to limiting the subordinate components within the agency to alternative work schedules is final and not appealable
- 1209.6 The basic requirements for establishing an alternative work schedule shall be as follows:
- (a) The basic forty-hour (40-hour) workweek may be scheduled on fewer than five (5) days;
  - (b) The working hours in each day of the basic workweek need not be the same; and
  - (c) The basic non-overtime workday may exceed eight (8) hours.
- 1209.7 An alternative work schedule shall not be combined with a flexible work schedule under section 1208 of this chapter, a compressed work schedule under section 1210 of this chapter, or telecommuting under section 1211 of this chapter.

## **1210 COMPRESSED WORK SCHEDULE**

- 1210.1 Pursuant to D.C. Official Code § 1-510 (2006), section 7 of the Fair Labor Standards Act of 1938 (FLSA), as amended, (29 U.S.C. § 207) shall not apply to the hours of work of a District government employee that constitute a compressed work schedule.
- 1210.2 A compressed work schedule shall be the number of hours, excluding overtime hours, an employee is required to work or account for in a biweekly pay period that enable the employee to complete an eighty-hour (80-hour) work schedule in fewer than ten (10) workdays.
- 1210.3 The tour of duty for each employee under a compressed work schedule program shall be defined by a fixed schedule established by the agency.

- 1210.4 The established work schedule of an employee working a compressed work schedule may not exceed ten (10) hours for any workday.
- 1210.5 A compressed work schedule shall not be combined with a flexible work schedule under section 1208 of this chapter, an alternative work schedule under section 1209 of this chapter, or telecommuting under section 1211 of this chapter.

## **1211 TELECOMMUTING**

- 1211.1 Telecommuting is an arrangement in which an employee regularly performs officially assigned duties at home or other work sites geographically convenient to the residence of the employee.
- 1211.2 Based on the needs of the organization, and to the maximum extent possible without diminishing employee performance, each agency is authorized to establish telecommuting for eligible employees of the agency.
- 1211.3 Telecommuting shall be part of a scheduled tour of duty and subject to a written agreement.
- 1211.4 Requests to engage in telecommuting must be signed by the employee, the employees supervisor and certify that the conditions set forth in 1211.7 apply to this employee.
- 1211.5 Unless otherwise approved by the personnel authority, telecommuting shall be limited to not more than two (2) days per workweek.
- 1211.6 Positions best suited for telecommuting are those that:
- (a) Have job tasks that are quantifiable, primarily project or case-work oriented, telephone intensive, or computer-oriented; or have work activities that can be accommodated working away from the current work location with equal efficiency as being performed at the official work site;
  - (b) Do not require daily unscheduled face-to-face contact with other employees, supervisors, or the public in the current work location; and
  - (c) Allow meetings to be scheduled without inconveniencing or impairing the performance of co-workers.
- 1211.7 Telecommuting shall not be combined with a flexible work schedule under section 1208 of this chapter, an alternative work schedule under section 1209 of this chapter, or compressed work schedule under section 1210 of this chapter.
- 1211.8 Authorization to engage in telecommuting may be rescinded by the agency head whenever it is determined that the employee has failed to accomplish the work as proscribed, and for other reasons within the discretion of the agency head.

- 1211.9 Whenever an agency determines that the approval for telecommuting is to be rescinded, the employee shall be given, where practicable, at least one week's notice of the rescission.
- 1211.10 Upon the termination of the telecommuting approval, the employee shall return to the tour of duty that existed prior to receiving approval to engage in telecommuting, unless the tour of duty has been changed by the employee's supervisor in accordance with applicable rules.
- 1211.11 Failure of an employee to return to his or her regular tour of duty upon the rescission of the authorization to engage in telecommuting, shall result in the forfeiture of the employee's opportunity to receive engage in telecommuting in the future and where appropriate will result in disciplinary action.

## **1212 REST PERIODS**

- 1212.1 At the discretion of an agency head, a rest period of fifteen (15) minutes during each four-hour (4-hour) period of work may be authorized for an individual employee or small groups of employees whenever such rest period would accomplish one (1) or more of the following:
- (a) Protect employees' health by providing relief from hazardous work or work that requires continuous or considerable physical exertion;
  - (b) Reduce accident rates by removing the potential for fatigue;
  - (c) Provide relief from work that is performed in confined spaces where normal personal activities are restricted; or
  - (d) Increase or maintain high quality and quantity work product.

## **1213 CHANGES IN SCHEDULED TOURS OF DUTY**

- 1213.1 Scheduled tours of duty in effect when these regulations become effective shall remain in effect until action is taken in accordance with these regulations to implement a change.

## **1214 THRU 1219 – RESERVED**

## **1220 LEGAL PUBLIC HOLIDAYS**

- 1220.1 Pursuant to section 1202 (a) of the CMPA (D.C. Official Code § 1-612.02 (a)) (2006), as amended by section 95 of the Technical Amendments Act of 2006, effective March 2, 2007 (D.C. Law 16-191; 53 DCR 6794, August 18, 2006), the following days are legal public holidays for District government employees covered by this chapter:



- (a) New Year's Day, January 1;
- (b) Dr. Martin Luther King, Jr.'s Birthday, the third (3<sup>rd</sup>) Monday in January;
- (c) Washington's Birthday, the third (3<sup>rd</sup>) Monday in February;
- (d) District of Columbia Emancipation Day, April 16;
- (e) Memorial Day, the last Monday in May;
- (f) Independence Day, July 4;
- (g) Labor Day, the first (1<sup>st</sup>) Monday in September;
- (h) Columbus Day, the second (2<sup>nd</sup>) Monday in October;
- (i) Veterans Day, November 11;
- (j) Thanksgiving Day, the fourth (4<sup>th</sup>) Thursday in November; and
- (k) Christmas Day, December 25.

1220.2 Pursuant to section 1202 (c)(1) of the CMPA (D.C. Official Code § 1-612.02 (c)(1)) (2006), January 20 of each year following the year in which a Presidential election is held, Inauguration Day, shall be a legal public holiday for all employees scheduled to work on that day. When January 20 of any such year falls on a Sunday, the next succeeding day selected for the public observance of the inauguration of the President shall be a legal public holiday for all employees scheduled to work on that day.

1220.3 The rules for determining holidays contained in section 1222 of this chapter shall not apply to Inauguration Day.

1220.4 In addition to the legal public holidays set forth in sections 1220.1 and 1220.2 of this section, the Mayor may designate other days or portions of a day as legal public holidays.

1220.5 There shall be no official observance of religious holidays except those that are also legal public holidays.

1220.6 An employee whose personal religious beliefs require him or her to abstain from working during certain periods of time shall be entitled to reasonable accommodation as provided in section 1206 of this chapter or, at his or her request, may be granted annual leave, compensatory time, or leave without pay, as appropriate.

## **1221 ENTITLEMENT TO HOLIDAYS**

1221.1 Each full-time employee, and each part-time employee with a scheduled tour of duty, except student employees paid by stipend, shall be entitled to holidays as provided in section 1222 of this chapter.

**1222 DETERMINING HOLIDAYS**

1222.1 Pursuant to section 1202 (b) of the CMPA (D.C. Official Code § 1-612.02 (b)) (2006), in-lieu-of holidays shall be determined as follows for purposes of pay and leave:

- (a) Whenever a legal public holiday falls on a workday in the basic workweek of Monday through Friday, that workday shall be the holiday;
- (b) Whenever a legal public holiday falls on a nonworkday of a basic workweek of Monday through Friday, the holiday shall be the Monday immediately following a legal public holiday occurring on Sunday, or the Friday immediately preceding a legal public holiday occurring on a Saturday;
- (c) When a legal public holiday falls on a nonworkday in a workweek that is other than Monday through Friday, the holiday shall be determined as follows:
  - (1) If the legal public holiday falls on the first or only nonworkday of the administrative workweek, the holiday shall be the day before the legal public holiday; and
  - (2) If the legal public holiday falls on the second or subsequent nonworkday of the administrative workweek, the holiday shall be the first scheduled workday following the legal public holiday.
- (d) For a part-time employee, whenever a legal public holiday falls on a workday within the employee's scheduled tour of duty, that shall be the holiday;
- (e) For a part-time employee, whenever a legal public holiday falls on a nonworkday for that employee, he or she shall not be entitled to a holiday;
- (f) When a legal public holiday falls on an employee's workday that covers two (2) calendar days, he or she shall be excused from work on the entire workday that begins on the calendar day of the legal public holiday; and
- (g) An employee who has two (2) regular tours of duty, both beginning on a holiday, shall be excused from work on the first tour of duty that begins on the holiday.

1222.2 The Director, D.C. Department of Human Resources, shall issue a holiday schedule annually. Nothing contained in this section shall be construed to alter any holiday schedule or "in-lieu-of" schedule issued by the Director, D.C. Department of Human Resources, prior to the effective date of these regulations.

**1223 EFFECT OF HOLIDAYS**

- 1223.1 The occurrence of a legal public holiday shall not affect the designation of the basic workweek.
- 1223.2 An employee who is excused from duty on a holiday shall be entitled to the same pay for that day as for a day on which an ordinary day's work is performed.
- 1223.3 An agency head may, within his or her discretion, include a holiday within the hours of duty or regular workweek of employees and require them to work on that day.
- 1223.4 An employee who is required to work on a holiday as specified in section 1223.3 of this section, but whose absence is approved by the agency, shall be charged sick leave, annual leave, or leave without pay, as appropriate.
- 1223.5 An employee who is required to work on a holiday as specified in section 1223.3 of this section, but who is inexcusably absent or refuses to work on a holiday, shall be charged with absence without leave (AWOL) for that period of absence.
- 1223.6 An employee under an alternative work schedule under section 1209 of this chapter, or a compressed work schedule under section 1210 of this chapter who performs work on a holiday shall be entitled to holiday premium pay as provided in section 1131 of Chapter 11 of these regulations.
- 1223.7 Except as provided in section 1223.8 of this section, an employee who is not required to work on a holiday shall not be charged annual leave, compensatory time, sick leave, or LWOP for that day. An employee on annual leave, sick leave, or compensatory time for a period that includes a holiday shall not be charged annual leave, sick leave, or compensatory time for that day.
- 1223.8 An employee in a nonpay status the last day of a regular tour of duty immediately prior to a holiday and the first day of a regular tour of duty immediately after the holiday shall not be entitled to have his or her nonpay status changed to a pay status for that holiday unless the employee works on that holiday.

**1224 LEGAL PRIVATE HOLIDAY**

- 1224.1 Pursuant to section 1202a of the CMPA (D.C. Official Code § 1-612.02a) (2006), a legal private holiday is a day on which any paid leave or unpaid leave provided by this chapter may be granted.

**1225 THRU 1226 – RESERVED**

**1227 GENERAL PROVISIONS FOR ANNUAL AND SICK LEAVE**

1227.1 As provided in section 1203 (a) of the CMPA (D.C. Official Code § 1-612.03 (a)) (2006), an employee shall be entitled to earn both annual and sick leave as provided herein, except for the following:

- (a) An employee who does not have a scheduled tour of duty;
- (b) An elected official; or
- (c) A temporary employee appointed for less than ninety (90) days.

1227.2 The days of annual and sick leave provided by this chapter shall be days on which an employee would otherwise work and receive pay, but shall exclude holidays and nonworkdays established by statute or administrative order.

1227.3 Other than for the liquidation of advanced sick leave indebtedness as provided in section 1230.4 of this chapter, the retroactive substitution of annual leave, compensatory time, or leave without pay for sick leave shall not be authorized.

**1228 ENTITLEMENT TO ACCRUE ANNUAL AND SICK LEAVE**

1228.1 A full-time employee:

- (a) May accrue leave only when employed for a full workweek; and
- (b) Shall be deemed employed for a full workweek if he or she is employed during the days within that week, exclusive of holidays and nonworkdays established by statute or administrative order, that fall within that workweek.

1228.2 A full-time employee who initially enters on duty on the first (1<sup>st</sup>) workday of a biweekly pay period shall accrue the full amount of leave to which he or she would be entitled for that biweekly pay period.

1228.3 A full-time employee who initially enters on duty after the first (1<sup>st</sup>) workday of a biweekly pay period, but not later than the first (1<sup>st</sup>) workday of the second (2<sup>nd</sup>) week of a biweekly pay period, shall accrue one-half (½) of the leave to which he or she would have been entitled for a full biweekly pay period.

1228.4 A full-time employee who initially enters on duty after the first (1<sup>st</sup>) workday of the second week of a biweekly pay period shall not be entitled to accrue leave for that biweekly pay period.

1228.5 A full-time employee who separates after the close of business on the last workday of a biweekly pay period shall accrue the full amount of leave to which he or she would

be entitled for that biweekly pay period.

- 1228.6 A full-time employee who separates after the completion of one (1) workweek in a biweekly pay period, but prior to the close of business on the last day of a biweekly pay period, shall accrue one-half ( $\frac{1}{2}$ ) of the leave to which he or she would have been entitled for a full biweekly pay period.
- 1228.7 A full-time employee who separates prior to the completion of the first week in a biweekly pay period shall not be entitled to accrue leave for that biweekly pay period.
- 1228.8 A full-time employee paid on other than a biweekly pay period basis earns leave on a pro-rata basis for a full pay period.
- 1228.9 Except as provided in section 1228.10 of this section, a full-time employee shall earn leave during each full biweekly pay period while in a pay status or in a combination of pay status and nonpay status.
- 1228.10 Whenever the number of hours of nonpay status accrued by a full-time employee during a leave year equals the number of base pay hours eighty (80) in a biweekly pay period, the employee's accrued leave shall immediately be reduced by the amount of annual and sick leave accruals the employee earns during one (1) biweekly pay period.
- 1228.11 For the purpose of determining reduction of leave credits under this section when a full-time employee has one (1) or more breaks in service during the leave year, the agency shall include all hours in a nonpay status for each period of service during the leave year in which the leave accrued.
- 1228.12 When a reduction in leave credits results in a debit to a full-time employee's leave account at the end of a leave year, the debit shall be carried forward as a charge against the leave to be earned by the employee in the next leave year, unless the employee and the agency agree to a repayment as provided in section 1230.4 of this chapter.
- 1228.13 A part-time employee, unless otherwise excluded, shall be entitled to accrue annual and sick leave on a pro-rata basis.
- 1228.14 Hours in a pay status for which the employee would be entitled to overtime pay shall be disregarded in computing the leave earnings of a part-time employee.
- 1228.15 A part-time employee must serve under an established tour of duty for each of the two (2) administrative workweeks in each biweekly pay period in order to accrue leave.
- 1228.16 A part-time employee who completes a full biweekly pay period may carry over, from one pay period to the next, those hours of service in a pay status that do not equal the number necessary for a minimum leave accrual of one (1) hour, until sufficient

service is rendered to total the hourly accrual; but if the employee changes to full-time employment status and has insufficient service credit to earn the minimum of one (1) hour, the fractional hours of service shall be lost because of the change from part-time to full-time status.

**1229 ANNUAL LEAVE, SICK LEAVE, LEAVE WITHOUT PAY, AND ABSENCE WITHOUT LEAVE—GENERAL**

1229.1 The minimum charge for annual leave, sick leave, leave without pay, and absence without leave shall be one (1) hour, and additional charges shall be in multiples thereof.

1229.2 Scheduled leave (annual, sick, or leave without pay) shall be leave that is requested, approved, and scheduled prior to the end of the workday immediately preceding the day of such leave.

**1230 REPAYMENT OF ADVANCED ANNUAL OR ADVANCED SICK LEAVE**

1230.1 Except as provided in section 1230.2 of this section, when an employee who is indebted for advanced leave is separated, the agency shall either:

- (a) Require a repayment in the amount paid to the employee for the period covering the leave for which indebted; or
- (b) Deduct that amount from any lump-sum leave payment, accrued wages, severance pay, other compensation, or any combination thereof, due the employee.

1230.2 Repayment of advanced leave shall be forgiven when an employee:

- (a) Dies;
- (b) Retires for disability under the authority of Title XXIII of the CMPA (D.C. Official Code § 1-623.01 *et seq.*) (2006);
- (c) Resigns or is separated because of disability that prevents him or her from returning to duty or continuing in the service and is the basis of the separation as determined by the agency on acceptable medical evidence that is the kind of medical evidence customarily relied on to support such claims; or
- (d) Enters on active military duty with restoration rights under 38 U.S.C. §§ 2121 or 2024.

1230.3 Any indebtedness for advanced leave remaining after application of the provisions of section 1230.1 of this section shall be a debt owed to the District government.

1230.4 Advanced sick leave may be liquidated by subsequently earned sick leave, by a charge against annual leave, or by a repayment upon separation in accordance with section 1230.1 of this section.

- 1230.5 An employee may, with the consent of his or her employing agency, agree to repay the agency in cash, either by lump-sum payment or by payment schedule to be completed within twenty-four (24) months of the first (1<sup>st</sup>) payment, for advanced annual or sick leave. The amount of the repayment shall be calculated at the pay rate that is in effect at the time of the repayment.
- 1230.6 An employee shall be deemed to have been in a pay status for the period covered by a cash payment pursuant to section 1230.4 of this section.
- 1230.7 If an employee is subsequently reemployed, the leave "forgiven" under section 1230.2 of this section shall not be chargeable against subsequently earned leave.
- 1230.8 If an employee is subsequently reemployed and had advanced leave when previously separated that was not recovered under sections 1230.1 or 1230.3 of this section, such un-recovered advanced leave shall be charged against subsequently earned leave.

### **1231 TRANSFER AND RE-CREDIT OF ANNUAL AND SICK LEAVE**

- 1231.1 When an employee subject to this chapter transfers between agencies, the Office of the Chief Financial Officer shall certify the employee's annual and sick leave accounts to the employing agency for credit or charge.
- 1231.2 Pursuant to section 1203 (k) of the CMPA (D.C. Official Code § 1-612.03 (k)) (2006), a federal government employee who is hired or appointed by the District government without a break in service of more than one (1) workday, and who did not receive a lump-sum payment for annual leave upon separation from the federal service, shall be credited with the annual leave balance to his or her account at the time of separation from the federal service.
- 1231.3 An employee who has received a lump-sum payment for annual leave upon separation from the federal service shall be credited with a zero (0) annual leave balance upon entry into District government service.
- 1231.4 Pursuant to section 1203 (k) of the CMPA (D.C. Official Code § 1-612.03 (k)) (2006), a federal government employee who is hired or appointed by the District government without a break in service shall be credited with the sick leave balance to his or her account at the time of separation from the federal service.
- 1231.5 Except as provided in section 1231.7 of this section, the annual and sick leave to the credit of an employee who transfers between agencies of the District government under different leave systems without a break in service shall be transferred to his or her credit in the employing agency on the same adjusted basis as provided in section 1231.6 of this section.
- 1231.6 Except as provided in section 1231.7 of this section, when annual leave or sick leave is credited from a leave system that accrues leave on a basis other than that prescribed by sections 1233.1 or 1233.2 of this chapter, an employee to whom this section applies shall be credited with five (5) hours of leave for each seven (7) hours of leave accumulated under the leave system from which credited, with fractional parts of an

hour being rounded up to the next whole hour.

- 1231.7 Annual and sick leave to the credit of a uniformed member of the Firefighting Division of the Fire and Emergency Medical Services Department who transfers to another agency of the District government, or to a non-uniformed division of the Fire and Emergency Medical Services Department, shall be adjusted by dividing both the annual leave and the sick leave by one and two-tenths (1.2), with the results rounded up to the next whole hour.
- 1231.8 The employing agency shall have the primary responsibility for determining whether an employee is entitled to be credited with leave purportedly standing to an employee's credit when the employee's transfer or reemployment involves different leave systems and a re-credit is otherwise appropriate.
- 1231.9 Pursuant to section 1203 (i) of the CMPA (D.C. Official Code § 1-612.03 (i)) (2006), an individual who received a lump-sum payment for annual leave upon separation from District government service, and who is reemployed by the District government prior to the end of the period covered by the lump-sum payment, shall repay the District government an amount equal to the lump-sum payment for the time between the date of reemployment and the end of the period covered by the lump-sum payment, and shall be reccredited with annual leave for that period.
- 1231.10 When an employee is reemployed in a position under a different leave system prior to the expiration of the period for which the lump-sum leave payment has been made and the unexpired period of leave covers a larger amount of leave than can be transferred to the different leave system, the employee shall be required only to make a repayment covering the amount of re-creditable annual leave.
- 1231.11 No repayment shall be required when an employee is reemployed under circumstances where he or she is not entitled to accrue leave.
- 1231.12 An employee subject to this chapter who transfers to a position under the District of Columbia Teachers' Leave Act shall be entitled to a lump-sum payment for unused annual leave.
- 1231.13 When an employee transfers to a position under a different leave system to which only a part of the employee's sick leave can be transferred, then so much of the employee's sick leave as was not transferred to the new leave system shall be reccredited should the employee return to the leave system under which it was earned prior to the expiration of three (3) years.
- 1231.14 An employee who separates from District government service other than by retirement, shall have his or her sick leave account reccredited, either on an hour-for-hour basis, or on an adjusted basis as provided in sections 1231.6 or 1231.7 of this section, as appropriate, if reemployed without a break in service of three (3) years or more.
- 1231.15 If official records specifying the amount of leave to be credited or reccredited are not available, an estimate of the employee's leave account shall be acceptable when accompanied by an official statement that contains the basis for the estimate.



- 1231.16 An employee who earned leave under a statute previously in force shall be entitled to re-credit of that leave under that authority, if he or she is entitled to re-credit for it, on reentering the leave system under which it was earned; however, leave already forfeited shall not be revived.
- 1231.17 Pursuant to section 2343 of the CMPA (D.C. Official Code § 1-623.43 (2006)), an employee who has used annual leave or sick leave as a result of an injury or illness, and whose injury or illness is later determined, as provided in Chapter 23 of these regulations, to be job-related, shall be entitled to repurchase so much of that annual leave, or sick leave, or both, as he or she shall desire, at the hourly rate in effect at the time it was used, and shall have that amount of annual leave, sick leave, or both recredited.
- 1231.18 There shall be no limitation on the amount of either annual leave or sick leave that can be repurchased under section 1231.17 of this section, but any annual leave repurchased shall be subject to the forfeiture provisions of section 1239 of this chapter, and may be considered to have been administrative error for purposes of restoration under section 1239 of this chapter.

## **1232 ACCRUAL OF ANNUAL LEAVE**

- 1232.1 A full-time employee to whom this chapter applies shall earn annual leave as follows:
- (a) An employee with less than three (3) years of service shall earn four (4) hours for each full biweekly pay period;
  - (b) An employee with three (3) but less than fifteen (15) years of service shall earn six (6) hours for each full biweekly pay period, except that the accrual for the last full bi-weekly pay period in the leave year shall be ten (10) hours; and
  - (c) An employee with fifteen (15) or more years of service shall earn eight (8) hours for each full biweekly pay period.
- 1232.2 Except as provided in section 1232.5 of this section, a part-time employee for whom there has been established in advance a regular tour of duty on one (1) or more days during each administrative workweek shall earn annual leave as follows:
- (a) An employee with fewer than three (3) years of service shall earn one (1) hour of annual leave for each twenty (20) hours in a pay status;
  - (b) An employee with three (3) but fewer than fifteen (15) years of service shall earn one (1) hour of annual leave for each thirteen (13) hours in a pay status; and
  - (c) An employee with fifteen (15) years or more of service shall earn one (1) hour of annual leave for each ten (10) hours in a pay status.
- 1232.3 A change in the rate of accrual of annual leave shall take effect at the beginning of the

pay period after the pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, in which the employee completed the prescribed period of service.

1232.4 When a full-time employee changes from the six-hour (6-hour) annual leave-earning category to the eight-hour (8-hour) category at the beginning of the last full biweekly pay period in the calendar year, his or her leave credit for that pay period shall not exceed eight (8) hours.

1232.5 A part-time employee entitled to earn annual leave shall not earn annual leave for any hours worked for which he or she is entitled to overtime compensation under Chapter 11 of these regulations.

### **1233 ANNUAL LEAVE—DETERMINING CREDITABLE SERVICE**

1233.1 In determining years of creditable service, an employee shall be entitled to receive credit for the following:

- (a) All service creditable under 5 U.S.C. § 8332 for the purpose of an annuity; and
- (b) All service creditable under the District retirement benefits program established pursuant to section 2605 of the CMPA (D.C. Official Code § 1-626.05) (2006).

1233.2 An employee who is a retired member of a uniformed service as defined by 5 U.S.C. § 3501 shall be entitled to credit for active military service only if his or her retirement was based on a disability:

- (a) Resulting from injury or disease received in line of duty as a direct result of armed conflict; or
- (b) Caused by an instrumentality of war and incurred in line of duty during a period of war as defined by 38 U.S.C. §§ 101 and 301.

1233.3 The determination of years of service may be made on the basis of an affidavit from the employee subject to verification by the appropriate personnel authority.

1233.4 District government service prior to October 1, 1987 that is under Social Security shall be creditable for leave purposes and shall be purchasable for credit toward retirement under 5 U.S.C. § 8332.

### **1234 ANNUAL LEAVE—QUALIFYING PERIOD**

1234.1 If a temporary appointment is for less than ninety (90) days, the employee shall not be entitled to earn annual leave.

1234.2 If a temporary appointment for less than ninety (90) days is extended for an additional ninety (90) days or longer without a break in service, or if there are successive temporary appointments without a break in service that aggregate ninety (90) days or longer, then the employee shall receive retroactive credit for leave earned from the date of appointment, and shall earn leave thereafter.

1234.3 Retroactive annual leave credited, or annual leave earned thereafter as specified in section 1234.2 of this section, shall not be substituted retroactively for either compensatory time or leave without pay taken during the period described in section 1234.1 of this section.

### **1235 ANNUAL LEAVE—GRANTING**

1235.1 Annual leave may be used by an employee for any reason, but is intended primarily to be used for the following two (2) general purposes:

- (a) To allow the employee vacation periods of extended leave every year for rest and recreation; and
- (b) To provide periods of time off for personal and emergency purposes.

1235.2 The annual leave provided by this chapter, including annual leave that has been advanced as provided in section 1236 of this chapter, may be granted at any time during the leave year in accordance with these regulations.

1235.3 An employee is entitled to his or her annual leave, and the taking of annual leave for the purposes set forth in section 1237.1 of this section should be encouraged, subject to scheduling approval by the agency head.

1235.4 An approved absence that would otherwise be properly chargeable to sick leave may be charged to annual leave, compensatory time, or leave without pay, if requested in advance by the employee and approved by the agency head.

### **1236 LEAVE RESTRICTION FOR ABUSE OF EMERGENCY ANNUAL LEAVE**

1236.1 An agency head may restrict an employee from using annual leave whenever by the preponderance of the evidence, it is established that an employee engages in a pattern or practice of abuse, such as:

- (a) Requesting emergency annual leave in order to avoid certain work shifts or work assignments; or
- (b) Consistently requesting emergency annual leave that results in the employee being unavailable immediately preceding or following the employee's two (2) consecutive days outside of the basic work week.

- 1236.2 Whenever an agency head determines that an employee has engaged in the activities set forth in 1236.1 of this section, the agency may place the employee on leave restriction.
- 1236.3 An employee placed on leave restriction must obtain permission before taking any annual leave or sick leave as outlined in section 1243 without prior approval by the employee's immediate supervisor or other supervisor within the chain of command of the employee.
- 1236.4 An employee shall not be deemed to have received prior approval to take emergency annual leave by notifying a co-worker or leaving a message on the voicemail of the supervisor.
- 1236.5 An employee under leave restriction who takes emergency leave without receiving prior approval shall be subject to being placed in an Absence Without Official Leave status in accordance with Section 1268 of this chapter.

### **1237 ANNUAL LEAVE—ADVANCING**

- 1237.1 Annual leave may be advanced, at the discretion of the agency head, up to but not exceeding the amount of annual leave that would accrue to the employee by the end of the current leave year, or by the employee's anticipated termination date, if applicable, whichever is sooner.
- 1237.2 If the reason for an employee's request for advanced annual leave would qualify for leave under the District of Columbia Family and Medical Leave Act of 1990 (D.C. FMLA), effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*) (2006), any advanced annual leave granted shall count towards the sixteen-week (16-week) maximum under the D.C. FMLA.

### **1238 ANNUAL LEAVE—MAXIMUM ACCUMULATION**

- 1238.1 Pursuant to section 1238.3 of this section, annual leave that is not used by an employee shall accumulate for use in succeeding years, except that annual leave in excess of two hundred forty (240) hours at the beginning of the first full biweekly pay period of the calendar year, or the corresponding period for an employee who is not paid on the basis of biweekly pay periods, shall be forfeited as provided in section 1238.2 of this section.
- 1238.2 The beginning of the first biweekly pay period in the calendar year shall be the point at which an employee's accumulated annual leave balance is fixed, and when a determination shall be made that annual leave in excess of the maximum amount allowable under section 1238.1 of this section, as appropriate, shall be forfeited.
- 1238.3 Annual leave in excess of the amount allowable under this section that was accumulated under an earlier statute shall remain to the credit of the employee until used. If an employee with such credit uses more annual leave in a leave year than he or she earns:
- (a) The balance carried forward shall become the new leave ceiling if it is still above the maximum accumulation allowable under section 1238.1 of this

section; or

- (b) The new leave ceiling shall be two hundred forty (240) hours if the balance carried forward is equal to or less than two hundred forty (240) hours.

## **1239 ANNUAL LEAVE—RESTORATION**

- 1239.1 As provided in section 1203 (h)(2) of the CMPA (D.C. Official Code § 1-612.03 (h)(2)) (2006), annual leave that is lost due to administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960, or because of exigencies of the public business when the annual leave was scheduled in advance, or because of sickness of the employee when the annual leave was scheduled in advance, shall be restored to the employee.
- 1239.2 Pursuant to section 1203 (h)(2)(A) of the CMPA (D.C. Official Code § 1-612.03 (h)(2)(A)) (2006), restored annual leave that causes the employee's accumulated annual leave balance to exceed the maximum allowable accumulation under section 1239.1 of this chapter, as appropriate, shall be credited to a separate leave account for the employee and shall be available for use by the employee for a period of two (2) years.
- 1239.3 Pursuant to section 1203 (h)(2)(B) of the CMPA (D.C. Official Code § 1-612.03 (h)(2)(B)) (2006), annual leave otherwise accruable after June 30, 1960, which is lost because of administrative error and is not reccredited because the employee is separated before the error is discovered, shall be subject to credit and liquidation by lump-sum payment only if a claim is filed within three (3) years immediately following the date the error was discovered.
- 1239.4 Except in the case of administrative error, annual leave shall be restored under the provisions of section 1239.1 of this section only if the agency head first determines either of the following:
  - (a) That an exigency of the business is of major importance and that annual leave scheduled at least three (3) biweekly pay periods prior to the actual end of the leave year must be denied; or
  - (b) That the substitution of sick leave for annual leave resulted in an inability to comply with the approval and scheduling requirements of paragraph (a) of this subsection.
- 1239.5 As applicable, annual leave restored under section 1239.1 of this section and credited to a separate leave account as provided in section 1239.3 of this section shall be forfeited unless scheduled and used not later than the end of the leave year ending two (2) years after one (1) of the following dates:
  - (a) The date of restoration of the annual leave forfeited because of administrative

error;

- (b) The date fixed by the agency head as the termination date of the exigency of the public business that resulted in forfeiture of the annual leave; or
- (c) The date the employee is determined to be recovered and able to return to duty if the leave was forfeited because of sickness.

1239.6 Restored leave shall be included in a lump-sum payment if unused and still available upon the separation of the employee.

1239.7 The agency head shall provide notification to the appropriate authority to effect the restoration of annual leave under this section.

#### **1240 PAYMENT FOR ANNUAL LEAVE**

1240.1 An employee who accepts a position within the District government under a different leave system without a break in service, may elect either a lump-sum payment for any unused annual leave or have such leave retained for re-crediting purposes if he or she returns to a position covered by the provisions of these regulations.

1240.2 An employee who uses annual leave credited because of administrative error may elect to repay the amount received for such leave by lump-sum or installment payments, or to have such leave carried forward as a charge against later accruing annual leave, or to apply for a waiver of the overpayment under Chapter 29 of these regulations.

1240.3 An employee who is separated from the service, or elects to receive a lump-sum payment for leave upon entrance into the military service, shall be entitled to receive a lump-sum payment for annual leave to which entitled.

1240.4 The lump-sum payment pursuant to section 1240.3 of this section shall equal the pay the employee would have received had he or she remained in the service. The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation.

#### **1241 ACCRUAL OF SICK LEAVE**

1241.1 A full-time employee to whom this chapter applies shall accrue sick leave on the basis of four (4) hours for each full biweekly pay period.

1241.2 Sick leave shall be credited at the beginning of each full or partial (one-half (½)) pay period for use during or after that pay period.

1241.3 Except as provided in section 1241.5 of this section, a part-time employee shall earn

one (1) hour of sick leave for each twenty (20) hours in a pay status.

1241.4 Sick leave provided for in this section that is not used by an employee during the year in which it accrues shall accumulate and be available for use in succeeding years. There shall be no limitation on the amount of sick leave an employee may accumulate.

1241.5 A part-time employee entitled to earn sick leave as provided in section 1241.3 of this section shall not earn sick leave for any hours worked for which he or she is entitled to overtime compensation under Chapter 11 of these regulations.

## **1242 SICK LEAVE—GRANTING**

1242.1 An agency head shall grant sick leave to an employee under any of the following circumstances:

- (a) When the employee requires personal medical, dental, or optical examination or treatment;
- (b) When the employee is incapacitated for the performance of his or her duties by physical or mental illness, injury, pregnancy, or childbirth;
- (c) When the employee would jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease (as determined by appropriate health authorities or by a health care provider);
- (d) When the employee's absence is required to provide care for a family member who is incapacitated by a medical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment;
- (e) When the employee's absence is required to provide care for a family member with a serious health condition;
- (f) Because of the birth, or the placement for adoption, of a son or daughter of the employee, and in order to care for such son or daughter; or
- (g) When the employee is absent because of the death of a family member, provided that such absence shall not exceed three (3) workdays (twenty-four (24) hours), and that the employee provides evidence that is acceptable to the agency.

1242.2 When any of the circumstances set forth in section 1242.1 of this section occurs within a period of annual leave, an agency head may, at the employee's request, convert annual leave to sick leave.

1242.3 Annual leave may not be substituted for sick leave that has been applied for and granted.

- 1242.4 An employee shall file a written application for sick leave within such time limits as the agency head may prescribe.
- 1242.5 An employee shall request sick leave in advance for a pre-scheduled appointment for medical, dental, or optical examination or treatment.
- 1242.6 An agency head may grant sick leave only when supported by a medical certificate or appropriate document signed by the employee.
- 1242.7 For an absence in excess of three (3) workdays, or for a lesser period when determined necessary by an agency, the agency may require a medical certificate, or other administratively acceptable evidence as to the reason for the absence.

### **1243 LEAVE RESTRICTION FOR ABUSE OF SICK LEAVE**

- 1243.1 An agency head may restrict an employee from using sick leave whenever by the preponderance of the evidence, it is established that an employee engages in a pattern or practice of: abuse as evidenced by:
- (a) Requesting emergency sick leave in order to avoid certain work shifts or work assignments; or
  - (b) Frequent requests for emergency sick leave that result in the employee being unavailable immediately preceding or following the employee's consecutive two (2) days outside of the basic workweek.
- 1243.2 Whenever an agency head determines that an employee has engaged in the activities set forth in 1243.1 of this section, the agency may place the employee on leave restriction.
- 1243.3 An employee placed on leave restriction must obtain permission before taking any annual leave as outlined in section 1236 of this chapter or sick leave without prior approval by the employee's immediate supervisor or other supervisor within the chain of command of the employee.
- 1243.4 An employee shall not be deemed to have received prior approval to take emergency sick leave by notifying a co-worker or leaving a message on the voicemail of the supervisor.
- 1243.5 An employee under leave restriction who takes emergency sick leave without receiving prior approval shall be subject to being placed in an Absence Without Official Leave status in accordance with Section 1268 of this chapter, may be ordered to obtain a medical examination in accordance with Chapter 20 of the District Personnel Manual and where appropriate subject to disciplinary action.



**1244 SICK LEAVE—ADVANCING**

- 1244.1 A maximum of two hundred forty (240) hours of sick leave may be advanced, in the discretion of the agency head, in cases of serious disability or ailments, except:
- (a) When the agency head has reason to believe that the employee may not be able to repay the advanced leave; or
  - (b) When an employee is serving on an appointment that will be terminated on a specified date, in which case an agency head may advance sick leave only up to the total sick leave the employee would earn during the remainder of the appointment.
  - (c) If the reason for an employee's request for advanced sick leave would qualify for leave under the D.C. FMLA, any advanced sick leave authorized shall count towards the sixteen-week (16-week) maximum under the D.C. FMLA.

**1245 FLSA COMPENSATORY TIME—ACCRUING**

- 1245.1 Compensatory time is an authorized absence from official duty in lieu of payment of authorized overtime as provided in Chapter 11 of these regulations.
- 1245.2 Compensatory time shall be accrued in fifteen-minute (15-minute) increments. An FLSA non exempt employee shall be limited to the following amounts of compensatory time:
- (a) A maximum of four hundred eighty (480) hours for employees occupying public safety, emergency response, and seasonal-work positions; and
  - (b) A maximum of two hundred forty (240) hours for all other employees.

**1246 FLSA COMPENSATORY TIME—GRANTING**

- 1246.1 An employee to whom the agency head would be willing to grant annual leave, including annual leave in lieu of sick leave as provided in section 1235 of this chapter, sick leave as provided in section 1244 of this chapter, or leave without pay as provided in section 1267 of this chapter, may be granted, at the employee's request, compensatory time in lieu of annual leave, sick leave, or leave without pay.
- 1246.2 To the maximum extent practicable, compensatory time should be taken within three (3) months after it is earned.
- 1246.3 Compensatory time shall be granted only in one-hour (1-hour) increments, except that a fractional part of an hour may be granted when it is used in conjunction with the last remaining full hour accrued.

**1247 PAYMENT FOR FLSA COMPENSATORY TIME**

- 1247.1 An employee shall be given a lump-sum payment for any FLSA compensatory time in his or her account at the time of separation from District government service, regardless of the nature of the separation.

**1248 EXEMPT TIME OFF**

- 1248.1 Exempt time off may be authorized as provided in section 1139 of Chapter 11 of these regulations.
- 1248.2 An employee to whom the agency would be willing to grant annual leave, including annual leave in lieu of sick leave, as provided in section 1236 of this chapter, sick leave as provided in section 1243 of this chapter, or leave without pay as provided in section 1267 of this chapter, may be granted, at the employee's request, exempt time off in lieu of annual leave, sick leave, or leave without pay.

**1249 – RESERVED**

*Sections 1250 through 1259 of this chapter are unaffected by this Notice of Proposed Rulemaking.*

**1260 ABSENCE FOR MATERNITY REASONS**

- 1260.1 The granting of approved absence for maternity reasons may be by a combination of one (1) or more of the following:
- (a) Sick leave;
  - (b) Annual leave;
  - (c) Compensatory time;
  - (d) Exempt time off; or
  - (e) Leave without pay.
- 1260.2 Except as provided by the D.C. FMLA, authorizing leave without pay for maternity reasons shall be a matter of administrative discretion on the part of each agency head.
- 1260.3 Leave without pay normally shall be granted only at the request of the employee.
- 1260.4 The agency head shall ensure continued employment in the employee's position or a position of like seniority, status, and pay, to an employee who wishes to return to work following delivery and confinement, unless termination is otherwise required by expiration of appointment, by reduction in force, for cause, or for similar reasons

unrelated to the maternity absence.

- 1260.5 Agencies shall apply the same leave policies, regulations, and procedures as are applicable to requests for leave generally.
- 1260.6 Childbirth or complications of pregnancy shall be deemed to be temporary disabilities and shall be treated for leave purposes in the same manner as any other physical condition that incapacitates the employee for the performance of duty.
- 1260.7 Periods of absence related to pregnancy and confinement that are not medically certified as due to incapacitation for the performance of duty shall not be charged to sick leave; they shall be charged to annual leave, compensatory time, or to leave without pay if requested by the employee and approved by the leave approving official.

## **1261 FUNERAL LEAVE**

- 1261.1 In accordance with section 1203 (n) of the CMPA (D.C. Official Code § 1-612.03 (n)) (2006), an employee shall be entitled to not more than one (1) day of authorized absence without loss of or reduction in pay, or leave to which otherwise entitled, or credit for time or service, to make arrangements for, or attend the funeral of, or memorial service for, an immediate relative.
- 1261.2 Unless the mission of the agency would be seriously impaired, an agency shall grant an employee's request for annual leave, sick leave, exempt time off or compensatory time up to three (3) days upon the death of an immediate relative.
- 1261.3 An employee shall be entitled to not more than three (3) days of authorized absence (without loss of, or reduction in, pay, leave to which otherwise entitled, or credit for time or service) to make arrangements for, or attend the funeral of, or memorial service for, an immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the armed forces, but only if such wounds, disease, or injury were incurred while serving in a combat zone.
- 1261.4 The days requested for funeral leave need not be consecutive, but if they are not consecutive, the employee shall furnish the approving authority satisfactory reasons justifying the granting of funeral leave for nonconsecutive days.
- 1261.5 An agency may grant funeral leave only from a prescribed tour of duty, including regularly scheduled overtime, from a period during which, except for absence on funeral leave, the employee would have worked.

## **1262 MILITARY LEAVE**

- 1262.1 For the purposes of this section, the following terms have the meaning ascribed:

**Reserve component of the Armed Forces** – the Army National Guard of the United States; the Army Reserve; the Naval Reserve; the Marine Corps Reserve; the Air National Guard of the United States; the Air Force Reserve; or the Coast Guard Reserve.

**Military leave** – authorized absence without loss of or reduction in pay, leave, or credit for time or service, for the performance of military service as provided in this section. Military leave shall be distinguished from military furlough, which is a period of extended absence without pay while on extended active duty for general military service.

- 1262.2 An employee serving in a permanent appointment, temporary appointment pending establishment of a register (TAPER), term appointment, or indefinite appointment, who is a member of a reserve component of the Armed Forces, shall be entitled to military leave for each day, but no more than fifteen (15) calendar days in any one (1) calendar year in which he or she is on active duty, inactive-duty training under 37 U.S.C. § 101, funeral honors duty under 10 U.S.C. § 12503 and 32 U.S.C. § 115, or engaged in field or coast defense training under 32 U.S.C. §§ 502 through 505.
- 1262.3 An employee serving in a permanent appointment, temporary appointment pending establishment of a register (TAPER), term appointment, or indefinite appointment, who is a member of a reserve component of the Armed Forces, who performs full-time service for the purpose of providing military aid to enforce the law or in support of a contingency operation as defined in 10 U.S.C. § 101 (a)(13), shall be entitled to military leave, for not to exceed twenty-two (22) workdays in a calendar year, for either of the following:
- (a) Federal service under 10 U.S.C. §§ 331, through 333, or other provision of law, as applicable; or
  - (b) Full-time military service for his or her state, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.
- 1262.4 The pay due an employee who is granted military leave under section 1262.3 of this section shall be subject to the following:
- (a) The pay due the employee shall be reduced by any amount (other than travel, transportation, or per diem allowance) received by the employee for such military service as a member of a reserve component of the Armed Forces;
  - (b) The receipt of military pay shall not only reduce the employee's entitlement to civilian pay as provided in section 1262.4 (a) of this section, but shall also reduce his or her required contribution to the Civil Service Retirement Fund, if applicable, in the same manner as nonpay status reduces such contribution; and
  - (c) Civilian pay shall be reduced only by the amount that the employee receives for military service performed on a workday, and not by any amount that the employee might receive for military service performed on a nonworkday.

- 1262.5 When the D.C. National Guard is ordered to duty to perform the kind of services for which military leave is provided under section 1262.3 of this section, the military leave must be charged to the leave specified therein and an appropriate adjustment made in civilian pay as provided in section 1262.4 of this section.
- 1262.6 An employee serving in a permanent appointment, temporary appointment pending establishment of a register (TAPER), term appointment, or indefinite appointment, who is a member of the D.C. National Guard, shall be entitled to unlimited military leave without loss in pay for each day of any parade or encampment that the D.C. National Guard, or any portion thereof, is ordered to perform under title 49 of the D.C. Official Code by the Commanding General, but does not include time spent at weekly drills and meetings.
- 1262.7 An employee with a scheduled tour of duty shall be entitled to military leave as provided in this section.
- 1262.8 Military leave shall be granted only when competent orders are presented to the appropriate agency official(s).
- 1262.9 Military leave may be taken intermittently, a day at a time, or as otherwise directed under orders issued by competent military authority; provided, however, that the maximum amounts authorized are not exceeded.
- 1262.10 It shall be a prerequisite to entitlement to military leave that the employee was in a pay status either immediately prior to the beginning of the period of military service, or returned to a pay status immediately afterwards.
- 1262.11 An employee shall not be eligible for military leave for the following types of service:
- (a) Summer training as members of Reserve Officers Training Corps, when employees shall be carried in leave-without-pay status;
  - (b) Temporary Coast Guard Reserve;
  - (c) Participation in parades by members of the National Guard of any jurisdiction except the D.C. National Guard as provided in section 1262.6 of this section;
  - (d) Training with a state defense organization or a state military organization that is not a part of the National Guard, or any other organization created by the state in the absence of the state National Guard during an emergency;
  - (e) Weekly drills and meetings as a member of any reserve component of the Armed Forces, including the D.C. National Guard;
  - (f) Civil Air Patrol (established as a civilian auxiliary of the United States Air Force pursuant to An Act To establish Civil Air Patrol as a civilian auxiliary of

the United States Air Force and to authorize the Secretary of the Air Force to extend aid to Civil Air Patrol in the fulfillment of its objectives, and for other purposes, approved May 26, 1948, Pub. L. 557, 62 Stat. 274);

- (g) Time taken on a workday to travel to the place where the training is to begin unless military training orders encompass the period of travel time required;
- (h) Active duty as a commissioned officer in the Reserve Corps of the U.S. Public Health Service; or
- (i) Active duty with a state National Guard unit when ordered to duty by state authority, except when called for duty as specified in section 1262.3 (b) of this section.

1262.12 An employee who is a member of one of the reserve components of the Armed Forces and who is ordered into the active military service of the United States with the pay and allowances of his or her grade, may not, during the periods of such service, be employed in an active civilian capacity under the District government and receive pay therefore in the absence of specific statutory authority.

1262.13 Military leave shall be granted under section 1262.2 of this section subject to the following conditions:

- (a) An employee may be carried in a military leave status for fifteen (15) calendar days, provided such leave has not been used previously during the current year;
- (b) Military leave shall be limited to fifteen (15) calendar days in a calendar year, regardless of the number of training periods in the calendar year;
- (c) Nonworkdays falling within a period of absence on military training duty shall be charged against the fifteen (15) days of military leave allowed during the year; however, nonworkdays occurring at the beginning or end of the training period shall not be charged;
- (d) An employee shall not be granted more than fifteen (15) days of military leave for any one (1) period of active duty, regardless of whether that period is wholly within one (1) calendar year, or extends over more than one (1) calendar year, and regardless of whether more than one (1) set of orders is involved;
- (e) There is no requirement that the first fifteen (15) days of a longer period of active duty be considered as the period for which military leave is to be granted; if circumstances in any particular case warrant it, any other fifteen-day (15-day) period may be designated as the period for which military leave shall be granted, so long as the intent of the statute is otherwise observed; and
- (f) When an employee who has been granted the maximum of fifteen (15) days

allowed during any calendar year is subsequently ordered to a second (2<sup>nd</sup>) period of training duty, and the later period extends into the next calendar year, the employee may be granted military leave commencing on the first day of the new calendar year, provided the employee was in a duty or pay status when he or she entered the second (2<sup>nd</sup>) period of training duty.

1262.14 If a physical examination is required in connection with military leave:

- (a) The time required for such examination shall be counted as part of the military leave, if it does not cause the total period of absence to exceed the maximum number of days allowed and
- (b) If the physical examination cannot be taken within the maximum period of time allowed, the required additional absence shall be charged to sick leave, annual leave, compensatory time, or leave without pay, as appropriate.

1262.15 An employee who is a member of a reserve component of the Armed Forces who is called for a period of military service in excess of the maximum number of days allowed for military leave may use annual leave, compensatory time, or leave without pay for the period of absence from duty.

1262.16 A member of a reserve component of the Armed Forces may also be carried in an annual leave status to the extent of annual leave accrued during the period of active military service.

1262.17 When an employee, while on annual leave before a furlough-without-pay occurring prior to separation by reduction in force, is called to military training duty, military leave shall be regarded as interrupting his or her annual leave status so as to permit him or her to revert to an annual leave status at the termination of the military leave before the previously fixed reduction-in-force termination date.

1262.18 An employee who is scheduled to work on an evening or weekend, and who is simultaneously required to be absent from duty to participate in evening or weekend drills or meetings with his or her reserve component unit, and for whom a schedule adjustment, as provided in section 1204.2 (h) of this chapter, cannot reasonably be made, shall be excused from duty, but the absence shall be charged to annual leave, compensatory time, or leave without pay, as appropriate.

## **1263 COURT LEAVE**

1263.1 Court leave shall be the authorized absence from work status without loss of or reduction in pay, leave to which otherwise entitled, or credit for time or service, of an employee other than an employee on a when-actually-employed (WAE) or intermittent basis, whenever the employee is performing jury service as set forth in section 1264 of this chapter, witness service, as provided in section 1265 of this chapter, or on a substituted basis, as specified in sections 1263.5, 1263.6, or 1263.15 of this section.

1263.2 Court leave shall only be granted to an employee who, except for the performance of

jury or witness service, would have been on duty, or on leave with pay or compensatory time, and shall not be granted to an employee in a nonpay status when summoned to perform such service.

- 1263.3 A night-shift employee who performs jury or witness service during the day shall be granted court leave for his or her regularly scheduled night tour of duty.
- 1263.4 While the word "summoned" as used in this section and in sections 1264 and 1265 of this chapter includes a subpoena, the word does not connote any necessity for a subpoena, but does intend that the summons be an official request, invitation, or call, evidenced by an official writing from the court or authority responsible for the conduct of the proceeding, thus ruling out strictly voluntary appearances from court leave coverage, as well as a "summons" for any purpose other than those set forth in sections 1264 and 1265 of this chapter.
- 1263.5 If an employee is on annual leave when summoned to perform jury or witness service, court leave shall be substituted, and any annual leave forfeited as a result of the substitution shall be restored as provided in section 1241 of this chapter.
- 1263.6 An employee on annual leave under advance notice of separation due to reduction in force pursuant to Chapter 24 of these regulations, and who is summoned to perform jury or witness service, shall be entitled to have court leave substituted for annual leave, but not to extend beyond the date administratively fixed for his or her separation.
- 1263.7 Court leave shall only be granted for the period actually spent in jury or witness service, plus reasonable travel time.
- 1263.8 When no hardship would result, it shall be within the administrative discretion of the agency head to require an employee on court leave to return to duty or suffer a charge against his or her annual leave or compensatory time, or to be placed on leave without pay if the employee does not elect to use annual leave or compensatory time (or if there is no available annual leave or compensatory time), if the employee is excused from jury or witness service for half or more of a workday. A hardship would be deemed to occur if the employee was unable to perform a substantial part of a day's duty, or if the employee was assigned to a night shift.
- 1263.9 Upon return to duty, the agency head may require the employee to certify to, or submit written evidence of, the dates and, if possible, the hours of the jury or witness service performed.
- 1263.10 An employee who performed jury or witness service while on court leave shall not be entitled to also retain jury or witness fees paid by the court, a party, or other body for the same period of service, except as follows:
- (a) If a court's rules define its fees as payment for travel and meals, or otherwise as reimbursement for expenses, then these fees may be retained by an employee; and
  - (b) An employee shall be permitted to retain fees received for jury or witness service performed on a holiday falling within the employee's basic tour of duty



if, had the employee not been performing such service, he or she would have been excused from regular duties on that holiday.

- 1263.11 The employee shall turn over to his or her agency any fees for jury or witness service that are not authorized to be retained.
- 1263.12 The employee shall be permitted to keep any excess of the jury or witness fees over the amount of compensation due him or her for the same period.
- 1263.13 An employee who is in a leave-without-pay status as specified in section 1267 of this chapter when summoned for jury or witness service, and consequently not entitled to court leave, shall be entitled to retain all fees for services while in a leave-without-pay status.
- 1263.14 An employee who is a party in any civil action, or a defendant in a criminal action, shall not be entitled to court leave, but shall be required to take annual leave, compensatory time, or leave without pay, as appropriate.
- 1263.15 An employee who is a successful plaintiff in an action against the District government brought under the Civil Rights Act of 1964, and who used annual leave, compensatory time, or leave without pay, shall be made whole as follows:
- (a) Any annual leave used by the employee for that period shall have court leave substituted therefore, and any annual leave forfeited as a result of the substitution shall be restored as provided in section 1241 of this chapter;
  - (b) Any compensatory time used by the employee for that period shall have court leave substituted therefore; and
  - (c) Any leave without pay used by the employee for that period shall have court leave substituted therefore, and the employee given back pay.

## **1264 JURY SERVICE**

- 1264.1 Jury service for which court leave is authorized shall include any service as either a grand juror or petit juror in any jurisdiction, including time spent pursuant to a summons to appear for such service, whether or not actually selected to serve on such jury or juries.

## **1265 WITNESS SERVICE**

- 1265.1 For the purposes of this section, the following term has the meaning ascribed:

**Judicial proceeding** – any civil or criminal action, suit, or other proceeding of a judicial nature, whether at law or in equity, before a court of any jurisdiction, including any condemnation, preliminary, informational, or other such proceeding. The term also includes an administrative hearing or proceeding if it is to be held within the Washington Standard Metropolitan Statistical Area (SMSA). All stages (preliminary hearing, inquest, trial, or deposition taking) of the proceeding would be covered, including hearings and conferences before a committing court, magistrate, commission, Administrative Law Judge, Hearing Examiner, grand jury proceedings, and coroners' inquests, and hearings and conferences conducted by a prosecuting attorney for the purpose of determining whether an information or charge should be made in a particular case.

- 1265.2 Witness service for which court leave is authorized shall include any time spent by an employee summoned by any court or administrative agency having proper jurisdiction to appear as a witness or to produce evidence in any judicial proceeding in which the District of Columbia, the United States, or another state or local government is a party.
- 1265.3 An employee summoned as a witness in any matter that does not meet the requirements of section 1265.1 of this section may be granted annual leave, compensatory time, or leave without pay, as appropriate.
- 1265.4 An employee shall be considered to be performing official duty, rather than on court leave, during any period with respect to which he or she is summoned or assigned by his or her agency to testify or produce official records in his or her official capacity.
- 1265.5 If there is a question as to whether or not a particular summons falls within the criteria of sections 1265.1 or 1265.4 of this section, the agency head shall contact the court or other authority issuing the summons, and seek clarification.
- 1265.6 An employee performing official duty as set forth in section 1265.4 of this section shall be entitled to reimbursement of travel expenses pursuant to District government travel regulations.

**1266 ADMINISTRATIVE LEAVE**

- 1266.1 Administrative leave may be granted by an agency head, at his or her discretion, for up to ten (10) consecutive workdays.
- 1266.2 Administrative leave in excess of ten (10) consecutive workdays may be granted only with the approval of the personnel authority.
- 1266.3 Administrative leave shall be granted when an employee has been given permission to attend a meeting or conference, or to participate in an approved training program, but not directed to attend or participate.
- 1266.4 It shall be appropriate for an agency to use administrative leave in any case where time is needed to complete an investigation that could lead to a corrective or adverse action under Chapter 16 of these regulations. However, before placing an employee on administrative leave while an investigation is pending, the agency head shall determine whether the employee could be temporarily reassigned to another unit for the duration of the investigation.
- 1266.5 Temporary reassignment should be chosen over administrative leave in those cases where the employee's continued presence at the work site does not interfere with government operations, impede the pending investigation, or place other employees at risk.
- 1266.6 Administrative leave shall normally be authorized on an individual basis, except when a District government facility is closed or a group of employees is excused from work for various purposes.

- 1266.7 As provided in Chapter 16 of these regulations, an employee shall be given administrative leave for up to ten (10) hours for the purpose of preparing his or her answer to a notice of proposed adverse action initiated under that chapter.
- 1266.8 An employee shall be given administrative leave at reasonable times for the purpose of consulting with District government personnel officials, an equal employment opportunity officer, or with a supervisory or management official of higher rank than the employee's immediate supervisor, concerning the employee's duties, working conditions, employment and retirement status, complaints, grievances, appeals, and like matters; however, the employee shall be required to ask his or her immediate supervisor to indicate a convenient time when he or she can be excused without unduly disruption to the work schedule, and shall be required to inform the supervisor of the name of the official the employee needs to consult with, or office to be visited.
- 1266.9 An employee shall be given administrative leave for the purpose of taking a medical examination for District government employment, an examination for induction or enlistment in the active—but not the reserve—armed forces, a District government vehicle operator's examination, or other examination that his or her agency has requested him or her to take in order to qualify for reassignment, promotion, or continuance of his or her present job.
- 1266.10 Up to two (2) hours of administrative leave may be granted to an employee to attend an initial appointment for the Employee Assistance Program (EAP) pursuant to Chapter 20 of these regulations.
- 1266.11 A request by an elected Advisory Neighborhood Commissioner for administrative leave to attend an official Advisory Neighborhood Commission function shall be granted, unless the absence would seriously disrupt the activities of the District government agency in which the Advisory Neighborhood Commissioner is employed.
- 1266.12 Except when a work schedule has been established as provided in section 1204.2(j) of this chapter, an employee who is a member of a board or commission shall be given administrative leave to attend official board or commission meetings as defined in Chapter 11 of these regulations.
- 1266.13 An employee shall be given administrative leave, usually for a period not to exceed four (4) hours, in order to comply with the registration requirements of section 3 of the Military Selective Service Act, as amended (50 U.S.C. APP. 453), subject to the supervisor's right to approve the date and times at which such absence shall be granted.
- 1266.14 As provided in section 1266.15 of this section, an employee shall be given administrative leave for the purpose of voting in any election or referendum on a civic matter in his or her community.
- 1266.15 Where the polls are not open at least three (3) hours either before or after an employee's regular hours of work, an employee shall be granted an amount of administrative leave that will allow the employee to report for work three (3) hours after the polls open or leave work three (3) hours before the polls close, whichever requires the lesser amount of absence from duty.

- 1266.16 An employee shall be given administrative leave for initial treatment (including reasonable time spent in travel) of an injury incurred in the line of duty, and for the remainder of the day in which the injury occurred when the injury is sufficiently serious to justify the granting of sick leave had the injury not have been incurred in the line of duty.
- 1266.17 An employee who has returned to a full tour of duty but who, as a result of an illness or injury incurred in the line of duty, must report periodically for subsequent or follow-up treatment to a facility or physician authorized to treat him or her, shall be given administrative leave for the time necessary to receive such treatment (including travel) when treatment must be scheduled during the employee's regular tour of duty.
- 1266.18 An employee who is a disabled veteran, and who must report periodically for subsequent or follow-up medical examination or treatment directly related to his or her disability, may be given administrative leave for the time necessary to receive such treatment (including travel) when treatment must be scheduled during the employee's regular tour of duty. Requests for such leave shall include documentation and shall be made in advance.
- 1266.19 An employee who donates blood to the Red Cross or to any similar organization, or who donates blood to any District government employee in need of a blood transfusion, or who makes a donation of blood to replace blood required by any District government employee shall be given administrative leave for a reasonable period of time for this purpose.
- 1266.20 An employee may be given administrative leave to attend a meeting or conference, if not prohibited by law and if the agency head determines that the employee's attendance is in the best interest of the District government.
- 1266.21 An employee may be given administrative leave to attend programs or other meetings or functions that are officially sponsored or conducted by the District government or any of its agencies for the education or other benefit of employees.
- 1266.22 An employee representative of a recognized labor organization shall be granted administrative leave to attend meetings and conferences with management officials, pursuant to collective bargaining agreements, if prior approval is obtained in accordance with established agency or collective bargaining procedures.
- 1266.23 The Mayor may authorize the dismissal of employees for special reasons within his or her discretion without first declaring the day or portion of the day a legal public holiday under the provisions of section 1220.4 of this chapter. When dismissal is so authorized, affected agencies shall grant administrative leave to employees other than those designated as "emergency employees" under section 1270.3 of this chapter.

## **1267 LEAVE WITHOUT PAY**

- 1267.1 Leave without pay shall be charged only for those hours during which an employee would otherwise work or for which he or she would be paid, but shall not be charged

for hours for which an employee would receive overtime pay.

- 1267.2 The permissive nature of leave without pay distinguishes it from absence without leave, which shall be a nonpay status resulting from an agency determination that it will not grant annual leave, sick leave, compensatory time, or leave without pay, for a period of absence for which the employee did not obtain advance authorization or for which his or her request for leave has been denied.
- 1267.3 Except as provided by the D.C. FMLA, authorizing leave without pay shall be a matter of administrative discretion.
- 1267.4 An employee shall not be entitled to be granted leave without pay as a matter of right, except for the following:
- (a) A disabled veteran who is entitled to leave without pay, if necessary, for medical treatment; and
  - (b) A reservist and member of the National Guard who is entitled to leave without pay if necessary to perform military duties.
- 1267.5 Except in unusual circumstances or in furtherance of a program of interest to the District government when it is known in advance that the period of absence will exceed one (1) year, leave without pay shall not be authorized initially for any period in excess of fifty-two (52) calendar weeks.
- 1267.6 An agency head may approve leave without pay up to a maximum of fifty-two (52) calendar weeks.
- 1267.7 A personnel authority may approve leave without pay for any period of time.
- 1267.8 Section 1267.5 of this section shall not apply to absence for service with the U.S. Armed Forces, or for service with restoration rights under section 827 of Chapter 8 of these regulations.
- 1267.9 Leave without pay shall not extend beyond the termination of the employee's appointment.
- 1267.10 An employee may be involuntarily placed on leave without pay whenever:
- (a) The employee is drawing disability compensation under Title XXIII of the CMPA (D.C. Official Code § 1-623.01 et seq.) (2006);
  - (b) The employee is excused from duty as provided in section 1262.18 of this chapter, and does not elect, or does not have to his or her credit, either annual leave or compensatory time; or

- (c) The employee was originally granted court leave, has been excused as provided in section 1263.8 of this chapter, and does not elect, or does not have to his or her credit, either annual leave or compensatory time.

## **1268 ABSENCE WITHOUT LEAVE**

- 1268.1 An absence from duty that was not authorized or approved, or for which a leave request has been denied, shall be charged on the leave record as "absence without leave (AWOL)." The AWOL action may be taken whether or not the employee has leave to his or her credit.
- 1268.2 An agency head is authorized to determine whether an employee should be carried as AWOL.
- 1268.3 Pay shall be withheld for the entire period of AWOL.
- 1268.4 If it is later determined that the absence was excusable, or that the employee was ill, the charge to AWOL may be changed to a charge against annual leave, compensatory time, sick leave, or leave without pay, as appropriate.
- 1268.5 An employee shall not be required to perform duties during the period of the AWOL charge.

## **1269 – RESERVED**

## **1270 DECLARED EMERGENCIES—IN GENERAL**

- 1270.1 There shall be three (3) basic situations that may result in a declared emergency, as follows:
- (a) A situation that arises after employees are at work, and that results in early dismissals, as provided in section 1271 of this chapter;
  - (b) A situation that arises prior to normal duty hours, and that results in the declaration of an unscheduled leave or late arrival policy, as provided in section 1272 of this chapter; and
  - (c) A situation that arises prior to normal duty hours, and that results in a shut-down of District government operations, as provided in section 1273 of this chapter.
- 1270.2 The Mayor may declare an emergency whenever he or she deems it to be appropriate in the public interest.
- 1270.3 Because certain critical District operations cannot be suspended or interrupted during one of the emergency situations described in section 1270.1 of this section, agencies shall identify each emergency employee who performs duties that are vital to the continuity of medical facilities, public safety, emergency services, or other crucial

operations, and who is required to be at work regardless of emergency situations.

1270.4 An employee subject to the provisions of section 1270.3 of this section shall be identified by job title or other appropriate means and shall be notified, on an annual basis, in writing of the special requirements placed upon him or her in emergency situations.

1270.5 An emergency employee who is required to work during an emergency situation when non-emergency employees are on administrative leave shall be entitled to compensation as provided in Chapter 11 of these regulations.

## **1271 DECLARED EMERGENCIES—EARLY DISMISSALS**

1271.1 The Mayor may, whenever he or she deems it to be appropriate in the public interest, authorize the early dismissal of employees, whereupon he or she shall notify agencies to dismiss, for a specified period of time, and grant administrative leave to as many employees as the agency head has determined to be practicable.

1271.2 Agency heads and other personnel authorities may dismiss, and grant administrative leave to, employees due to breakdown of heating or air conditioning equipment and other similar situations within one or more of the agency's or personnel authority's facilities.

1271.3 Except as provided in section 1271.5 of this section, whenever early dismissal has been authorized, all employees, except emergency employees subject to the provisions of section 1270.3 of this chapter, shall be permitted to leave their assigned duty stations on administrative leave prior to the close of the normal workday, on administrative leave, if the following conditions are met:

(a) They are in a duty status when the notice of early dismissal is received; and

(b) Their regular tours of duty end after the hour given as the authorized time for early departure, but otherwise end no later than 7:00 p.m.

1271.4 An employee who previously requested and was granted leave for the entire day shall be charged leave for the entire day.

1271.5 An employee who, prior to the notice of early dismissal, requests and is granted leave for the remainder of his or her tour of duty, shall be charged leave for the remainder of the tour of duty.

1271.6 An employee who requests and is granted leave at any time after the receipt of the notice of early dismissal shall be charged leave only for that period when leave commences to the hour that early dismissal is authorized.

1271.7 An employee who requests and is granted leave prior to the notice of early dismissal, but who otherwise makes known his or her intention of returning to duty status at a

time that precedes the end of his or her regular tour of duty shall be charged leave only for the period of time specified.

**1272 DECLARED EMERGENCIES—LATE ARRIVAL OR UNSCHEDULED LEAVE POLICY**

1272.1 The Mayor may, whenever he or she deems it to be appropriate in the public interest, authorize one or both of the following:

(a) A late arrival policy authorizing up to two (2) hours of excused absence; or

(b) An unscheduled leave policy.

1272.2 Whenever the Mayor authorizes one of the policies set forth in section 1272.1 of this section, he or she shall make every reasonable effort to ensure that such decision is disseminated by the media as widely as possible.

1272.3 Each employee shall be responsible for reporting for duty and for making every possible effort to do so, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.

1272.4 When the Mayor determines that an unscheduled leave policy is in effect, an employee, other than an emergency employee subject to the provisions of section 1270.3 of this chapter, shall be permitted to utilize annual leave, compensatory time, exempt time off, or leave without pay, for all or part of that day, up to a maximum of eight (8) hours or hours worked under a compressed work schedule, if applicable, without obtaining advance approval or providing detailed justification; however, the use of sick leave must be approved in accordance with section 1243 of this chapter.

1272.5 An employee who does not request leave during a period when an unscheduled leave policy is in effect, and refuses to consent to any type of leave upon return to duty, shall be charged with absence without leave (AWOL).

**1273 DECLARED EMERGENCIES—SHUT-DOWN**

1273.1 The Mayor may, whenever he or she deems it to be appropriate in the public interest, authorize the shut-down of all non-essential District government operations prior to the commencement of normal duty hours.

1273.2 Whenever the Mayor authorizes such shut-down of all non-essential operations, he or she shall make every reasonable effort to ensure that such decision is disseminated by the media as widely as possible.

1273.3 Agency heads and other personnel authorities may authorize the shut-down of one or more of their facilities due to breakdown of heating or air conditioning equipment and other similar situations, and shall ensure that all affected employees are promptly



notified.

- 1273.4 Except as provided in section 1273.5 of this section, employees shall be given administrative leave for the entire day of shut-down.
- 1273.5 Each emergency employee subject to the provisions of section 1270.3 of this chapter shall still be required to report for duty and shall make every possible effort to do so, even upon the occurrence of conditions beyond the control of an employee, such as inclement or hazardous weather or transportation disruption.

#### **1274 THRU 1279 – RESERVED**

#### **1280 RECORDING OF HOURS OF WORK, LEAVE, AND LEGAL HOLIDAYS**

- 1280.1 The official time and attendance record shall be D.C. Form 251. Any revision or replacement of that the D.C. Form 251 shall be approved in advance by the Director, D.C. Department of Human Resources, or independent personnel authority, as appropriate.
- 1280.2 Hours of work, leave, and legal holidays, as provided in this chapter, shall be recorded on the official time and attendance record.

#### **1281 FAMILY AND MEDICAL LEAVE**

- 1281.1 District government employees are covered by the provisions of D.C. Official Code § 32-501 *et seq.* (2006) establishing the D.C. FMLA; and the provisions of the federal Family and Medical Leave Act (federal FMLA), approved January 5, 1993 (P.L. 103-3; 107 Stat. 7; 29 U.S. Code §§ 2611 *et seq.*).
- 1281.2 Personnel authorities may set forth written procedures for granting leave to employees under the D.C. FMLA and the federal FMLA.

#### **1282 VOLUNTARY LEAVE TRANSFER PROGRAM**

- 1282.1 District government employees are covered by the provisions of D.C. Official Code § 1-612.31 *et seq.* (2006) establishing the Voluntary Leave Transfer Program for the District government.
- 1282.2 In accordance with D.C. Official Code § 1-612.32 (a) (2006), each District government agency shall establish a voluntary leave transfer program for its employees, under which annual or universal leave accrued or accumulated by an employee may be transferred on an hour-for-hour basis within the agency to the annual or universal leave account of any other eligible agency employee.
- 1282.3 In accordance with D.C. Official Code § 1-612.32 (b) (2006), a voluntary transfer of leave is authorized when a potential recipient employee will suffer a prolonged

absence due to:

- (a) The employee's serious health condition; or
- (b) The employee's responsibility to provide personal care to an immediate relative.

## 1299 DEFINITIONS

The following definitions are added to section 1299.1 of this chapter:

**Absence without leave** – an unauthorized and unapproved absence from duty; also referred to as "AWOL."

**Accrued leave** – the leave earned by an employee during the current leave year that is unused at any given time in that leave year.

**Accumulated leave** – the unused leave remaining to the credit of an employee at the beginning of the leave year.

**Administrative leave** – an excused absence from duty without loss of pay and without charge to annual leave, sick leave, or compensatory time.

**Administrative workweek** – a period of seven (7) consecutive calendar days, Sunday through Saturday.

**Alternative work schedules** – means both flexible work schedules and compressed work schedules.

**Annual leave** – leave earned by an employee to be used for absence from duty, without loss of pay, primarily for a vacation or time off for personal or emergency purposes.

**Basic workweek** – the days and hours within an administrative workweek that make up the employee's scheduled tour of duty.

**Biweekly pay period** – two (2) designated consecutive administrative workweeks as established by the pay authority.

**Combat zone** – those areas determined by the President in accordance with section 112 of the Internal Revenue Code.

**Communicable disease** – a disease that is ruled as subject to quarantine, requires isolation of the patient, or requires restriction of movement by the patient for a specified period as prescribed by the health authorities having jurisdiction.

**Compressed work schedule** – in the case of a full-time employee, an eighty-hour (80-hour) biweekly basic work requirement that is scheduled for less than ten (10) workdays; in the case of a part-time employee, a biweekly basic work requirement of less than eighty (80) hours that is scheduled for less than ten (10) workdays and which may require the employee to work more than eight (8) hours in a day (D.C. Official Code § 1-510 (b)) (2006).

**Core hours** – the time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee under a flexible work schedule is required to be present for work.

**Family member** – the spouse (including the person identified by an employee as his or her “domestic partner” as defined in D.C. Official Code § 32-701 (2006) and parents thereof, children (including foster children) and spouses thereof, parents, brothers and sisters and spouses thereof, and any individual related by blood.

**Flexible work schedule** – in the case of a full time employee, a work schedule that has an eighty-hour (80-hour) biweekly basic work requirement that allows an employee to determine his or her own schedule within the designated hours (core hours) set by the employing agency; in the case of a part-time employee, a work schedule that has a biweekly basic work requirement of less than eighty (80) hours which allows an employee to determine his or her own schedule within the designated hours set by the employing agency.

**FLSA compensatory time** – time off in lieu of overtime pay for overtime work performed, earned and accrued under the conditions set forth in Chapter 11 of these regulations.

**Leave restriction** – a limitation on an employee’s ability to use annual or sick leave as a result of engaging in a pattern or practice of abuse of leave.

**Leave to which otherwise entitled** – accumulated and accrued annual leave, sick leave, and compensatory time.

**Leave without pay** – a temporary nonpay status and absence from duty granted at the employee’s request or as otherwise authorized by regulations; also referred to as “LWOP.”

**Leave year** – the period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately preceding the first day of the first complete pay period in the following calendar year.

**Medical certificate** – a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

**Medical condition** – a health impairment that results from injury or disease, including psychiatric disease, or any other physical or mental impairment that may affect an individual’s capacity to safely and satisfactorily perform his or her assigned duties.

**Official duty station** – the place at which the employee is required to perform duties.

**Scheduled tour of duty** – the period within an administrative workweek, within which employees are required to be on duty regularly.

**Sick leave** – leave with pay earned by an employee to be used while receiving medical, dental, or optical examination or treatment; while incapacitated for the performance of duties by sickness, injury, or pregnancy or childbirth; while required to give care or attendance to a family member who is afflicted with a contagious disease; or when the employee's presence at his or her official duty station would jeopardize the health of others because of exposure to a contagious disease.

**Standby time** – period(s) in which an employee is officially ordered to remain at or within the confines of his or her official duty station, not performing actual work but holding himself or herself in readiness to perform actual work when the need arises or when called.

Comments on these proposed regulations should be submitted, in writing, to Ms. Brender L. Gregory, Director, D.C. Department of Human Resources, 441 4<sup>th</sup> Street, NW, Suite 300 South, Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice. Additional copies of these proposed rules are available from the above address.

**DEPARTMENT OF PARKS AND RECREATION****NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Parks and Recreation, pursuant to the authority set forth in section 9a of the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1808.01 (2006 Supp.)), and Mayor's Order 2007-53, dated February 7, 2007, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication in the D.C. Register, the following rules to amend Chapter 7 of the D.C. Municipal Regulations.

This amendment is necessary to establish rules for the creation and maintenance of off-leash areas for dogs on District parkland by the Department of Parks and Recreation, including prerequisites for site selection, guidelines for the site selection process, the Department of Parks and Recreation responsibilities, and standard rules of operation.

**Chapter 7 of Title 19 (Amusements, Parks and Recreation) (June 2001) of the District of Columbia Municipal Regulations is amended as follows:**

The table of contents is amended by adding the following section headings:

730	Statement of Purpose
731	Dog Parks: General Provisions
732	Dog Parks: Application Process
733	Dog Parks: Site Guidelines and Specifications
734	Dog Parks: Complaints and Enforcement
735	Dog Parks: Operation Rules
799	Definitions

**New sections numbered 730 through 735 are added to read as follows:**

**730 STATEMENT OF PURPOSE**

730.1 The District of Columbia's Department of Parks and Recreation herein provides guidelines and rules for the application, development and operation of neighborhood fenced-in, off-leash dog parks

730.2 In October 2005, the Council of the District of Columbia unanimously passed legislation amending the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code 8-1801 et seq.)(2001) which authorized the Mayor to create fenced-in, off-leash dog parks. The Council recognized that a significant and growing portion of residents needed safe places to recreate and exercise together with their dogs. The creation of dog parks in the District of Columbia requires a certain degree of flexibility, due to the density of buildings as well as the scarcity of District-owned parkland.

Successful dog parks require partnerships with the community that enhance and protect the character of the neighborhood and accommodate changing needs.

### **731 DOG PARKS: GENERAL PROVISIONS**

- 731.1 The Director may establish and maintain areas on District-owned parkland designated for use as dog parks.
- 731.2 No person shall establish a dog park or charge a fee for use of a dog park on District-owned property without prior approval from the Department.
- 731.3 No person shall use a dog park for any commercial purpose, however this provision does not apply to dog walkers handling 3 or less registered dogs.
- 731.4 A dog park shall be open seven (7) days per week during the posted hours for any Department park, except as provided by section 731.5.
- 731.5 A dog park with lighting shall not remain open later than 10 p.m.
- 731.6 The Director shall post a notice of a planned dog park closing at each entrance not less than seven (7) days before the period of closure, stating the reasons for the closure. In the case of an emergency, the Director shall post a notice as soon as practicable, and the notice shall state that closure is for emergency reasons.
- 731.7 All dog parks shall be enclosed by appropriate fencing that is at least five (5) feet in height and includes a double-gated entryway area.
- 731.8 All handlers use dog parks at their own risk. Neither the District of Columbia or its agencies nor the sponsoring dog park group shall be liable for any injury or damage caused in the dog park.

### **732 DOG PARKS: APPLICATION PROCESS**

- 732.1 Each dog park shall be sponsored by a dog park group, which shall share responsibilities with the Department for the maintenance, management and enforcement of the site. The dog park group must designate one bona fide District resident to act as primary contact with the Department.
- 732.2 A dog park group shall contact the Department regarding a proposed location for a dog park, and the Department shall conduct a preliminary review to determine ownership of the proposed site.
- 732.3 After the Department determines that the proposed dog park is available District-owned parkland, the sponsoring group must submit a formal proposal to the Department stating the reasons for establishing a dog park in the neighborhood. The application shall include

letters and/or petitions of support from adjoining Advisory Neighborhood Commissions (ANCs) or other individuals and entities.

732.4 All applications for dog parks shall be noticed in the D.C. Register for a 30 day public comment period and reviewed by a standing committee appointed by the Director, the Dog Park Application Review Committee (DPARC), comprised of the following: (1) the Director or his or her designee from the Department; (2) a representative from the Department of the Environment; (3) a representative from the Department of Health/Animal Control Division; (4) a veterinarian active in canine health in the District of Columbia or a recognized canine behaviorist; (5) a representative from a recognized animal shelter or animal welfare organization located within the District of Columbia; and (6) four representatives from the community, two of whom shall be from sponsoring dog park groups of existing or potential dog parks. Non-agency members of DPARC are appointed by the Director with input from sponsoring dog park groups. DPARC members are not paid and shall serve for two years, but may be reappointed.

732.5 The DPARC shall review and evaluate all applications and make recommendations in writing to the Director within thirty (30) days of the submission of the application. The Director shall consider the application, DPARC recommendation and comments received during the 30 day comment period and respond in writing to the applicant and appropriate ANC within thirty (30) days of receiving the recommendation.

732.6 The Department has three courses of action concerning the review and evaluation of applications that may:

(a) Accept the application as submitted;

(b) Accept the application provisionally based on modifications to be made; or

(c) Reject the proposal with a detailed explanation.

732.7 If an application is rejected, the dog park group may re-apply to mitigate any defects in the application. If the application is rejected again, the Department may provide assistance in finding suitable alternatives.

732.8 If an application is accepted, the Department and the dog park group shall enter into a Memorandum of Agreement (MOA) regarding financing, roles and responsibilities with respect to the dog park. The Department shall have primary financial responsibility for constructing and maintaining the park, and the dog park group shall have primary responsibility for daily management of the park.

### **733 DOG PARKS: SITE GUIDELINES AND SPECIFICATIONS**

733.1 A dog park shall be no less than five thousand square feet (5,000 sq. ft.) in area where feasible, unless parkland availability in certain neighborhoods precludes meeting this

guideline. Triangle parks or other areas of less than five thousand square feet (5,000 sq. ft.) may be considered.

733.2 Best management practices shall be implemented wherever feasible to preserve the surrounding environment. A dog park shall be established according to the following environmental guidelines:

- (a) A dog park shall be located on well-drained land to prevent soil erosion with a maximum slope of 20%;
- (b) A dog park shall sit at least 50 feet from surface waters that drain into the Potomac and Anacostia Rivers and Rock Creek;
- (c) A dog park shall be located near a water supply line for drinking-fountain and maintenance purposes; and
- (d) A dog park shall have a surface type that allows for positive drainage away from the site and that helps mitigate waste management issues.

733.3 A dog park shall comply with all codes and regulations as they apply to the Americans with Disabilities Act of 1990, the Clean Water Act (Federal Water Pollution Control Act of 1972), the D.C. Water Pollution Control Act of 1984, and DPR Standards.

733.4 A dog park shall be established on under-utilized land where possible. If such land is not available in a neighborhood where there is a demonstrated need for a dog park, the Director may consider other options about park space, including but not limited to time-sharing arrangements with other park users.

733.5 The Director shall not approve sites deemed unsuitable for dog parks, which shall be determined on a case-by case basis and may include:

- (a) Areas designated specifically as playgrounds or children's play areas;
- (b) Athletic fields and courts;
- (c) Sensitive habitat areas or wildlife areas determined by the District Department of the Environment (DDOE); and
- (d) Areas directly upslope from a community garden.

733.6 Each dog park shall have permanent signs, posted in English and Spanish, stating the hours of operation, rules, and regulations for the dog park, and contact information for the Department.



**734 DOG PARKS: COMPLAINTS AND ENFORCEMENT**

- 734.1 All complaints or concerns regarding a specific dog park shall be directed to the sponsoring dog park group for resolution. If, after thirty (30) days, the complaint or concern has not been resolved satisfactorily by the sponsor, the complainant and sponsor shall meet with the Director or his or her designee to mediate a solution.
- 734.2 If the Department or the sponsoring dog park group determines that a dog park is not being managed or maintained properly, potential solutions shall be developed and agreed upon by all parties. Failure to implement the solutions may result in revocation of the dog park group's sponsorship and temporary or permanent closure of the dog park by the Director.
- 734.3 Sponsoring dog park groups are primarily responsible for enforcement of the operating rules, but may seek the assistance and authority of the Department or other appropriate agencies of the District of Columbia.

**735 DOG PARKS: OPERATING RULES**

- 735.1 Each dog park shall have a carrying capacity of one dog per 450 square feet, and the number of dogs allowed in the dog park at any one time shall be posted. Handlers are expected to enforce the carrying capacity to prevent conflicts due to overcrowding and detriment to the environment. When carrying capacity is reached, handlers shall limit their stay to thirty (30) minutes when others are waiting.
- 735.2 Each handler shall comply with all animal control, dangerous dog and communicable disease laws and regulations before entering a dog exercise area with a dog.
- 735.3 A handler shall be sixteen (16) years of age or older.
- 735.4 A child under sixteen (16) years of age may enter a dog park only when accompanied and supervised by an adult.
- 735.5 A handler shall ensure that each dog within his or her control is wearing a current vaccination and registration tag in a dog park, as well as a current dog park registration tag obtained from the Department of Health Animal Control Division.
- 735.6 A handler shall leash each dog within his or her control until entering and upon exiting the dog park. To prevent conflicts, a handler shall keep his or her dog off-leash in the dog park, unless no other dogs are present.
- 735.7 A handler shall collect and bag all solid waste from his or her dog and dispose of it in the designated on-site receptacle in the dog park.
- 735.8 A handler shall accompany, maintain visual contact, and have voice control over his or her dog(s) at all times.

735.9 A handler shall not have more than three (3) dogs in a dog park at any one time.

735.10 A handler shall not have a dog that is less than four (4) months old in a dog park.

735.11 A handler shall not have a female dog that is in heat in the dog park.

735.12 A handler shall not use a spike or choke collar on a dog in the dog park.

735.13 A handler shall immediately leash and remove from a dog park his or her aggressive dog.

735.14 A handler shall not have a dog designated as a dangerous dog or a potentially dangerous dog in the dog park.

735.15 A handler shall control excessive barking.

735.16 A handler shall report all animal bites to the Department of Health within twenty-four (24) hours in accordance with communicable disease laws.

**Section 799 is amended by adding the following definitions:**

**Aggressive Dog** – a dog whose behavior is characterized by unprovoked snarling, growling, or attack posture.

**Dangerous Dog** – as defined in Section 2 of the Dangerous Dog Amendment Act of 1988 (D.C. Law 7-176), a dog that has bitten or attacked a person or domestic animal without provocation; or, in a menacing manner, approaches without provocation any person or domestic animal as if to attack, or has demonstrated a propensity to attack without provocation or otherwise to endanger the safety of human beings or domestic animals.

**Department** – the Department of Parks and Recreation.

**Director** - the Director of the Department of Parks and Recreation.

**District** - the District of Columbia.

**Dog Park** – also known as a dog exercise area; area within District-owned property designated for dog exercise where dogs are allowed off-leash without being considered at-large.

**Dog Park Group** – identifiable non-profit or community group, such as an official dog group, Park Partner or Friends of Group, who applies to sponsor a dog park and shares responsibilities with the Department of Parks and Recreation in park operations and management.

**Dog Park Registration Tag** – Positive District of Columbia government issued identification that must be worn at all times by each dog using a dog park.

**Handler** - a person in control of a dog who is personally and legally responsible for the dog at all times while using a dog park.

**Maintenance** – The activities required to ensure that the dog park is in a state of repair and efficiency at all times as more clearly defined in DPR Dog Park Standards.

**Management** – The day to day oversight of the dog park to insure that all posted rules and DPR Standards are adhered to.

**Enforcement** – The activities required to ensure that General Provisions and Operating Rules provided herein, and DPR standards are adhered to.

**Potentially Dangerous Dog** - a dog that poses a threat to public safety by causing an injury to a person or domestic animal without provocation that is less severe than a serious injury, engaging in encouraged dog fighting, or running at large three (3) or more times within any 12-month period.

**Sensitive Habitat Area**– an area highly prone to erosion or the natural habitat of locally important, rare, threatened or endangered species of plant or wildlife as determined by the District Department of the Environment (DDOE).

Copies of this proposed rulemaking may be obtained by contacting: Jesse Rounds, Community Planner, Department of Parks and Public Recreation, 3149 16<sup>th</sup> Street, NW, Washington, DC 20010.

All persons desiring to comment on the proposed rulemaking shall submit their written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the above address.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, DC 20005**

**NOTICE OF PROPOSED RULEMAKING**

**FORMAL CASE NO. 982, IN THE MATTER OF THE INVESTIGATION OF  
POTOMAC ELECTRIC POWER COMPANY REGARDING INTERRUPTION  
TO ELECTRIC ENERGY SERVICE;**

**AND**

**FORMAL CASE NO. 1002, IN THE MATTER OF THE JOINT APPLICATION  
OF PEPCO AND THE NEW RC, INC. FOR AUTHORIZATION AND  
APPROVAL OF MERGER TRANSACTION**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its intent to modify Chapter 36, Electricity Quality of Service Standards ("EQSS") codified in Title 15 of the District of Columbia Municipal Regulations ("DCMR") in not less than 30 days from publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*. This NOPR proposes modifications to the Notice of Final Rulemaking of the EQSS published on September 28, 2007 in 54 *D.C. Register* 9376-9392. Interested persons are invited to comment on the amendments proposed herein.

2. The finalized EQSS combined previous Commission-approved standards with newly proposed standards. In addition, the EQSS incorporated the terms of Section 34-401 of the District of Columbia official code. The EQSS serve to establish standards and requirements for ensuring that an electric utility operating in the District of Columbia meet an adequate level of quality and reliability in the electricity service provided to District of Columbia residents.

3. As found appropriate, previous revisions proposed by the Potomac Electric Power Company ("Pepco")<sup>2</sup> and the Office of the People's Counsel ("OPC")<sup>3</sup>

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<sup>1</sup> D. C. Official Code, 2001 Ed. § 2-505.

<sup>2</sup> See *F.C. 982 and F.C. 1002*, Comments of the Potomac Electric Power Company in Response to Amended Notice of Proposed Rulemaking Electric Quality of Service Standards (filed August 27, 2007); see also *F.C. 982 and F.C. 1002*, Reply Comments of Potomac Electric Power Company in Response to Amended Notice of Proposed Rulemaking Electric Quality of Service Standards (filed September 10, 2007).

<sup>3</sup> See *F.C. 982 and F.C. 1002*, Comments of the Office of the People's Counsel on the Commission's Proposed Electric Quality of Service Standards (filed August 28, 2007); see also *F.C. 982*

have been incorporated into the modified EQSS proposed herein. An order explaining our reasons for accepting or denying certain revisions proposed by Pepco and OPC will issue when the modifications proposed herein are finalized. Specifically, Sections 3600.1, 3600.2, 3601.4, 3601.12, 3602.6, 3602.7, 3602.12, 3602.13, 3602.21, 3602.22, 3603.6, 3603.8, 3603.9, 3603.16, 3603.17, 3604.1, 3604.2, 3604.4, and 3699.1, have been modified as follows for clarity and consistency:

Currently, Section 3600.1 reads:

3600.1        The purpose of this chapter is to establish standards and requirements for ensuring that an electric utility operating in the District of Columbia meets an adequate level of quality and reliability in the electricity service provided to District of Columbia customers.

As modified, Section 3600.1 will read:

**3600.1        The purpose of this chapter is to establish standards and requirements for ensuring that an electric utility and electricity suppliers operating in the District of Columbia meet an adequate level of quality and reliability in the electricity service provided to District of Columbia customers.**

Currently, Section 3600.2 reads:

3600.2        This chapter shall apply to an electric utility company operating in the District of Columbia, subject to the authority of the Public Service Commission.

As modified, Section 3600.2 will read:

**3600.2        This chapter shall apply to an electric utility company and electricity suppliers operating in the District of Columbia, subject to the authority of the Public Service Commission.**

Currently, Section 3601.4 reads:

3601.4        During the course of a major service outage, the utility shall report periodically to the Public Service Commission's Office of Engineering regarding the status of the service outage and the utility's progress in restoration efforts. The frequency of such periodic updates to the Office of Engineering shall be jointly determined by the utility and the Office of Engineering at the start of the service outage and/or as modified during the course of the service outage. At a minimum, the utility shall provide an

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*and F.C. 1002, Reply Comments of the Office of the People's Counsel on the Commission's Proposed Electric Quality of Service Standards (filed September 10, 2007).*

update to the Office of Engineering and to the Office of the People's Counsel prior to making any changes to its estimated restoration time.

As modified, Section 3601.4 will read:

**3601.4** During the course of a major service outage, the utility shall report periodically to the Public Service Commission's Office of Engineering and the Office of People's Counsel regarding the status of the service outage and the utility's progress in restoration efforts. The frequency of such periodic updates to the Office of Engineering shall be jointly determined by the utility and the Office of Engineering at the start of the service outage and/or as modified during the course of the service outage. At a minimum, the utility shall provide an update to the Office of Engineering and to the Office of the People's Counsel prior to making any changes to its estimated restoration time.

Currently, Section 3601.12 reads:

**3601.12** At a minimum, each telephone report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:

- (a) The location of the incident(s);
- (b) The Ward(s) where the incident(s) occurred;
- (c) The total number of customers and/or persons affected;
- (d) A preliminary assessment as to the cause of the incident(s); and
- (e) The steps the electric utility will take to provide assistance.

As modified, Section 3601.12 will read:

**3601.12** At a minimum, each telephone report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:

- (a) A description of the incident(s);
- (b) The location of the incident(s);
- (c) The Ward(s) where the incident(s) occurred;
- (d) The total number of customers and/or persons affected;

(e) A preliminary assessment as to the cause of the incident(s); and

(f) The steps the electric utility will take to provide assistance.

Currently, Section 3602.6 reads:

3602.6 Progress on current corrective action plans shall be included in the utility's annual Productivity Improvement Plan (PIP) report.

As modified, Section 3602.6 will read:

**3602.6 Progress on current corrective action plans shall be included in the utility's annual Consolidated Report.**

Currently, Section 3602.7 reads:

3602.7 The utility shall report the actual call center performance during the reporting period in the annual PIP of the following year.

As modified, Section 3602.7 will read:

**3602.7 The utility shall report the actual call center performance during the reporting period in the annual Consolidated Report of the following year.**

Currently, Section 3602.12 reads:

3602.12 Progress on any current corrective action plans will be included in the utility's annual PIP report.

As modified, Section 3602.12 will read:

**3602.12 Progress on any current corrective action plans will be included in the utility's annual Consolidated Report.**

Currently, Section 3602.13 reads:

3602.13 The utility shall report the actual performance obtained during the reporting period in the annual PIP of the following year.

As modified, Section 3602.13 will read:

**3602.13 The utility shall report the actual performance obtained during the reporting period in the annual Consolidated Report of the following year.**

Currently, Section 3602.21 reads:

3602.21 Progress on any current corrective action plans will be included in the utility's annual PIP report.

As modified, Section 3602.21 will read:

**3602.21 Progress on any current corrective action plans will be included in the utility's annual Consolidated Report.**

Currently, Section 3602.22 reads:

3602.22 The utility shall report the actual performance obtained during the reporting period in the annual PIP of the following year.

As modified, Section 3602.22 will read:

**3602.22 The utility shall report the actual performance obtained during the reporting period in the annual Consolidated Report of the following year.**

Currently, Section 3603.6 reads:

3603.6 The utility shall continue the current annual PIP reporting of the worst performing (lowest two (2) percent) feeders (utility methodology) and corresponding corrective action plans, with the action taken in year 1 and the subsequent performance in year 2.

As modified, Section 3603.6 will read:

**3603.6 The utility shall continue the current annual Consolidated Report reporting of the worst performing (lowest two (2) percent) feeders (utility methodology) and corresponding corrective action plans, with the action taken in year 1 and the subsequent performance in year 2.**

Currently, Section 3603.8 reads:

3603.8 The utility shall report on the number and percentage of non-major service outages that extend beyond the twenty-four (24) hour standard and the causes for these extended service outages.

As modified, Section 3603.8 will read:

**3603.8 The utility shall report on the number and percentage of non-major service outages that extend beyond the twenty-four (24) hour**



**standard and the reasons each such outage extended beyond the twenty-four (24) hour standard.**

Currently, Section 3603.9 reads:

3603.9        The report drafted pursuant to Section 3603.8 shall be included in the annual PIP report on reliability data.

As modified, Section 3603.9 will read:

**3603.9        The report drafted pursuant to Section 3603.8 shall be included in the annual Consolidated Report on reliability data.**

Currently, Section 3603.16 reads:

3603.16        The utility shall report on the progress on the corrective action plan in the annual PIP report submitted to the Commission.

As modified, Section 3603.16 will read:

**3603.16        The utility shall report on the progress on the corrective action plan in the annual Consolidated Report submitted to the Commission.**

Currently, Section 3603.17 reads:

3603.17        The utility shall also, per the orders of the Commission, continue current requirements of reporting annual reliability indices of SAIFI, SAIDI and CAIDI (with and without major events) in the annual PIP of the following year.

As modified, Section 3603.17 will read:

**3603.17        The utility shall also, per the orders of the Commission, continue current requirements of reporting annual reliability indices of SAIFI, SAIDI and CAIDI (with and without major events) in the annual Consolidated Report of the following year.**

Currently, Section 3604.1 reads:

3604.1        The electric utility and all electricity service providers must inform the Commission's Office of Engineering and the Office of the People's Counsel when a billing error has affected 100 or more customers or the number of affected customers is equal to or more than two (2) percent of the electric utility's or electricity service provider's customer base. The electric utility and electricity service providers with a customer base of

less than 100 customers shall report errors when two (2) or more customers are affected.

As modified, Section 3604.1 will read:

- 3604.1**      **The electric utility and all electricity suppliers must inform the Commission's Office of Engineering and the Office of the People's Counsel when a billing error has affected 100 or more customers or the number of affected customers is equal to or more than two (2) percent of the electric utility's or electricity supplier's customer base (whichever is less). The electric utility and electricity suppliers with a customer base of less than 100 customers shall report errors when two (2) or more customers are affected.**

Currently, Section 3604.2 reads:

- 3604.2**      **The electric utility and all electric service providers shall file an initial billing error notification within one (1) business day of discovering or being notified of the error. After submitting the initial notification, the electric utility and electric service providers must submit a follow-up written report within fourteen (14) calendar days and a final written report within sixty (60) calendar days.**

As modified, Section 3604.2 will read:

- 3604.2**      **The electric utility and all electricity suppliers shall file an initial billing error notification within one (1) business day of discovering or being notified of the error. After submitting the initial notification, the electric utility and electricity suppliers must submit a follow-up written report within fourteen (14) calendar days and a final written report within sixty (60) calendar days.**

Currently, Section 3604.4 reads:

- 3604.4**      **The initial billing error notification shall contain the following information:**
- (a)      The type(s) of billing error(s) found;**
  - (b)      The date and time the billing error(s) was discovered;**
  - (c)      How the electric utility or electric service provider discovered the error(s); and**
  - (d)      The approximate number of customers affected.**

As modified, Section 3604.4 will read:

**3604.4        The initial billing error notification shall contain the following information:**

- (a)        The type(s) of billing error(s) found;**
- (b)        The date and time the billing error(s) was discovered;**
- (c)        How the electric utility or electricity supplier discovered the error(s); and**
- (d)        The approximate number of customers affected.**

Currently, Section 3699.1 contains no definition for “electric utility” or “electricity supplier.”

As modified, Section 3699.1 will contain the following definitions for “electric utility” and “electricity supplier”:

**Electric Utility (or Utility) – the company that provides electric distribution service and is regulated by the Public Service Commission of the District of Columbia.**

**Electricity Supplier – a person, including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or, markets electricity for sale to customers. The term excludes the following: (A) building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to occupants of the building for use by the occupants; (B)(I) any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or (II) any apartment building or office building manager who aggregates electric service requirements for his or her building(s), and who does not: (i) take title to the electricity; (ii) market electric services to the individually-metered tenants of the building; or (iii) engage in the resale of electric services to others; (C) property owners who supply small amounts of power, at cost as an accommodation to lessors or licensees of the property; and (D) a consolidator.**

4.        Comments on the modifications to the EQSS proposed herein must be made in writing to Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, DC 20005. All comments must be received within 30 days of the date of publication of this Notice in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date of publication of this Notice in the *D.C. Register*. Once the comment and reply periods have expired, the Commission will take final rulemaking action.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., SUITE 200, WEST TOWER  
WASHINGTON, D.C. 20005

**NOTICE OF PROPOSED RULEMAKING**

**TELEPHONE TARIFF 07-3, IN THE MATTER OF THE APPLICATION OF  
VERIZON WASHINGTON, DC INC. FOR AUTHORITY TO AMEND THE  
GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203.**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to D.C. Official Code Section 2-505,<sup>1</sup> of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon DC") in the above-captioned matter in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On September 11, 2007, Verizon DC filed an application requesting authority to amend the following tariff pages:

**GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203**

**Section 31, 3<sup>rd</sup> Revised Page 6**

**2<sup>nd</sup> Revised Page 8**

3. Through this tariff filing, Verizon DC seeks to increase the rates for Regional Value service from \$25.04 to \$27.04 (a 7.0 percent increase) and Regional Essential service from \$30.04 to \$32.04 (a 6.0 percent increase). In addition, Verizon DC proposes to increase the Regional Essential discounts in proportion to the rate increase. Verizon DC is also introducing a Regional Value discount service option.<sup>2</sup> Customers subscribing to this service will receive a \$5.00 discount on their monthly bill for a period of 12 months if they also subscribe to a specified domestic long distance service calling plan and a Verizon Wireless 200 Minute plan billed via Verizon's One Bill option.<sup>3</sup> Verizon DC asserts that the proposed revisions are filed pursuant to Price Cap Plan 2004, although they are not classified under the Plan.<sup>4</sup>

4. The complete text of the tariff pages is on file with the Commission. Copies of the proposed tariff may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., 2<sup>nd</sup> Floor, West Tower, Washington, D.C. 20005, between the hours

<sup>1</sup> D.C. Official Code, § 2-505.

<sup>2</sup> See Application at 1.

<sup>3</sup> *Id.*

<sup>4</sup> See *id.* See also Formal Case No. 1005, *In the Matter of Verizon Washington, D.C. Inc.'s Price Cap Plan 2004 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 13370, rel. September 9, 2004. ("Price Cap Plan 2004" or "Plan").

of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the tariff pages are available upon request, at a per-page reproduction cost.

5. Comments on the proposed tariff revision must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment and reply comment periods have expired, the Commission will take final rulemaking action on Verizon DC's filing.